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Plaintiff In Pro Se

FILED
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SUSAN Y. SOONG
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIAL

HOWARD HERSHIPS, Plaintiff, v. DIRECTOR OF THE CALIFORNIA JUDICIAL COUNCIL IN HER OFFICIAL CAPACITY TANI CANTIL-SAKAUYE, DIRECTOR OF THE CALIFORNIA DEPARTMENT OF MOTOR VEHICLES JEAN SHIOMOTO AND THE SACRAMENTO COUNTY SUPERIOR COURT, Defendants.	CASE No. 17 CV 00473 YGR FIRST AMENDED COMPLAINT PURSUANT TO F.R.C.P. RULE 15 FOR CIVIL RIGHTS COMPLAINT PURSUANT TO TITLE 42 U.S.C. § 1983 SEEKING A PRELIMARY INJUNCTION DECLARING THE WAY THE STATE TRIAL COURT IS FUNDED UNDER CALIFORNIA GOVERNMENT CODE § § 6085(a) (1) 77003 UNCONSTITIONAL, SEEKING TO CONVENE A THREE JUDGE COURT PURSUANT TO TILE 28 U.S.C. § 2284 SEEKING DECLARATORY JUDGMENT PURSUANT TO TITLE 28 U.S.C. § § 2201 & 2202, AND TRO UNDER RULES 57 AND 65 FEDERAL FIRST CAUSE OF ACTION INJUNCTIVE RELIEF UNDER TITILE 42 U.S.C. § 1983 DENIAL OF A NEUTRAL AND DETACHED JUDICIAL OFFICER TO RULE ON THE ABILITY TO PAY, SECOND CAUSE OF ACTION VIOLATION OF TITLE 42 U.S.C. § 1983 FOR IMPOSING EXCESSIVE FINES IN VIOLATION OF THE 8TH AMENDMENT THIRD CAUSE OF ACTION AGAINST JEAN SHIOMOTO DIRECTOR OF THE CALIFORNIA DEPT OF MOTOR VEHICLES VIOLATION OF 42 U.S.C. § 1983, AND PUTIVE DAMAGES FOR PUNTIVE DAMAGES AGAINST JEAN SHIOMOTO FOR WILLFUL, MALICIOUS VIOLATIONS OF PLAINTIFF'S RIGHTS TO BE FREE FROM PUNISHMENT DUE PLAINTIFF'S POVERTY

JURISDICTION AND VENUE

This law suit is about the State of California whose sole focus on the funding 100% of the operations of the "Trial Court" is by generating revenue by imposing exorbitant penalties, fines and fees on all traffic court defendants which is the sole source of funding the "Trial Court Trust Fund" pursuant to California Government Code §§ 608085 (a) (1) and 77003.

The California Judicial Council's reliance on these policy and practices creates incentives for all judicial officers to find traffic court defendants guilty and to coerce payments through the threat of suspension of drivers' licenses with never having an opportunity for an ability to pay hearing before a neutral and detached judicial officer as at all times this structural conflict of interest requires the judicial officer to impose exorbitant penalty assessments fines and fees which are 2,300 % over the statutory penalty imposes for protection of the Public Safety under the California Vehicle Code.

California Judicial Council policy and practices of relying on exorbitant penalty assessments fines and fees, which is codified under California Government Codes sections 68085(a) (1) and 77003 is unconstitutional as it violates both the Due Process and Excessive Fines Clauses of the United States Constitution and exceeds the power of the California Judicial Council, which is the policymaking body of the California courts, the council is responsible for ensuring the consistent, independent, impartial, and accessible administration of justice. Judicial Council staff implements the council's policies.

Plaintiff Howard Herships brings this suit to vindicate his fundamental civil rights, obtain a TRO, invoke a Three Judge Panel pursuant to 28 U.S.C. § 2884 to declare these practices of 100% funding the State Trial Court from Penalty Assessments fines and fees imposed on traffic court defendants and to insure that plaintiff's rights will not be violated again, and to request a declaration from this Court that California Judicial Council policies and practices in this regard are unlawful.

JURISDICTION

1. The named plaintiff brings this action pursuant to 42 U.S.C. § 1983 and the Fourteenth Amendment to the United States Constitution as all of defendants acts were done under color of

State Law as plaintiff seeks declaratory relief which is unavailable in state court to enforce Federal Law.

2. This Court has jurisdiction pursuant to U.S.C. § 1331, because this action arises under the Constitution and Laws of the United States, and pursuant to 28 U.S.C. § 1343 (a) (3), because it seeks to redress the deprivation, under color of State Law, of rights, privileges, and immunities secured to the named plaintiff by the Constitution and Laws of the United States.

3. This Court shall file a request to the Chief Judge of the Ninth Circuit to empanel a two judges pursuant to Title 28 U.S.C. § 2284 to determine the Constitutionality of California Government Codes sections 6805(a) (1) and 77003, which provides for the majority of funding the Trial Courts of California by having the judicial officers having a financial interest in the in the outcome of the case. This Court has jurisdiction pursuant to Title 28 U.S.C. § § 2201 & 2202 for declaratory and injunctive relief and Rules 57 and 65 of the Federal Rules of Civil Procedure.

4. Venue is proper pursuant to 28 U.S.C. § 1391 (a) (2) & (b) (1) as these actions of defendant Director of Department of Motor Vehicles is by state wide application within the meaning of subsections (a) (2) and that Defendant Director of California Judicial Council office is within this Court's Judicial District.

PARTIES

5. Plaintiff Howard Herships, held a California Drivers' License in the State of California and received two "Red Light Camera Tickets" for making a Rights Turn on a red Light in California the maximum statutory fine for said violation of California Vehicle Code § 21453 (b) is $35.00.

6. Defendant California Judicial Council is responsible for ensuring the consistent, independent, impartial, and accessible administration of justice. Judicial Council staff implements the council's policies and operates at all times under color of State Law

7. California Judicial Council fully funds the California Trial Court by imposing penalty assessments, fines and fees on all traffic court defendants over and above the Statutory Fine imposed by creating "Structural Conflict of Interest" which creates an incentive for each and every judicial officer to find the traffic court defendants guilty and impose exorbitant penalty

assessments, fines and fees done solely to fully fund the Trial Court Trust Fund in an annual amount of some 1.8 billion dollars, see Exhibits 1 at page 8 and Exhibit 2 at page 11.

8. California Judicial Council totally relies on these penalty assessments to fund the day to day operations of the Trial Court and never permits an ability to pay hearing and nor could they as the very judicial officer's sole source of their salary and benefits are paid by the imposition of the penalty assessments, fines and fees, as the State Government fund to the State Court is only 2.8 million dollars, see Exhibit 3 at page 31.

9. Defendant Judicial Council policy and practices places this "Structural Conflict of Interest" which prevents any neutral and disinterested judicial officer from making a determination on an ability to pay hearing as it is very judicial officer's salary and benefits which are stake .

10. Defendant Sacramento County Superior Court is required to enforce the Constitution of the United States and apply the law under the "Supremacy Clause of the Constitution" requires a neutral and disinterested judicial officer in first instant and operates under Color of State Law

11. Defendant Sacramento County Superior Court never provides a neutral disinterested judicial officer at any time as can be shown in Plaintiff's filing of Defendant Superior Court form for "Ex Parte Application for Modification of Sentence for Ability To Pay" in which the judicial officer denied said request even through plaintiff made a showing, which required the granting of the reduction of the penalty assessments under Rule 4.335 (c) (1) (4) as plaintiff at all times relevant was on Public Benefits and had no ability to pay the $1,540.00 penalty assessments, fines and fees. See Exhibit 4 at page 38-39.

12. Defendant Superior Court did these acts even after this very Court requested mediation of the issues of suspension of plaintiff's driver's license without a pre-suspension hearing.

13. Defendant Superior Court in violation of the 8th Amendment the United States Constitution imposes "Excessive Fines" against plaintiff by some 2,300% of the original fine of $70.00 and done solely to fund the Trial Court Trust Fund by making plaintiff pay some $1540.00 for reinstatement of plaintiff's Drivers license in violation of clearly establish United States

Supreme Court Law.

14. Defendant Jean Shiomoto is the Director of California Department of Motor Vehicles and the Directors duties requires the director to comply with clearly established United States Law on giving a pre-suspension hearing prior to any suspension of a drivers' license and operates under color of State law. impossible

FACTUAL ALLEGATIONS

15. This law suit is brought in connection with the notice given by the United States Department of Justice, Civil Rights Division "Dear Colleague" letter dated March 14, 2016, sent to the California Judicial Council and which was requested that the letter be forward to every judge in your jurisdiction.

16. The **Judicial Council of California** is the rule-making arm of the California court system. The Judicial Council receives it jurisdiction under the California Constitution and under the leadership of the Chief Justice of the Supreme Court of California Defendant Tani Cantil-Sakauye.

17. The Judicial Council is responsible for "ensuring the consistent, independent, impartial, and accessible administration of justice." It was created by an amendment to article VI of the California Constitution in 1926.

18. California in 1997 unified the California trial Courts into one trial Court and enacted Senate Bill 430, which amended California Government Code sections 68085 which provided for all funds collected by imposition of penalty assessments, fines and fees shall be deposited into the Trial Court Trust Fund held by the Controller of the State of California and shall used **for the purpose of funding court operations. (Emphasis Added).**

19. California Government Code section 77003 defines just what the trial court trust fund pays for which **includes the all judicial officers salary and benefits. (Emphasis Added).**

20. California statutory plan for funding of the trial court 100% operation of traffic court on the judicial officers who after finding traffic court defendants guilty impose exorbitant penalty assessments and fines of traffic court defendants done solely to fund the trial court day to day operations including payment of the judicial officers' salary and benefits, there is no other source

of funding.

21. These practices of the California Judiciary places the actual judicial officers "situation in which an official perforce occupies two practically and seriously inconsistent positions, one partisan and the other judicial, [and] necessarily involves a lack of due process of law in the trial of defendants charged with crimes before him."

22. California's imposition of penalty assessments of fines and fees are all done without any ability to pay, which amounts to thousands of dollars, which are used as the only source of trial court funding as California Trial Court receives annually some 1.8 billion dollars annually, see Exhibit 1, page 8, showing that the penalty assessments, fines and fees generated some $1,872,169,432.00 from traffic court cases.

23. The only other source of funding that the Trial Court receives from the State Budget is some 2.8 million dollars, see Exhibit 3 at page 31.

24. California Judicial Council position as asserted in its publication California Judicial Benchguide § 83.16 holding that it "**is not constitutionally infirm" to impose the thousands of dollars of penalty assessments fines and fees and then suspend a defendants drivers license all done without providing a pre-suspension hearing or determining the ability to pay said fine. See Exhibit 5 at page 41.**

25. The penalty assessments fines and fees imposed by defendants Judicial Counsel and Superior Court are not subject to any ability to pay hearing and as stated above defendant Judicial Council take position that it is not constitutionally infirm to impose fines when the defendant has not ability to pay and the traffic court defendants can have their drivers' license suspended as punishment in direct violation of clearly established United States Supreme Court Law, which requires a pre-suspension hearing.

26. Defendant Sacramento County Superior Court is being sued based upon their failure to provide an ability pay hearing which comports to Due Process of Law, in that the current statutory provisions for funding the trial court in Sacramento County deprives traffic court defendants of their rights to a "neutral and detached" judicial officer as the current funding source for the all court operations is limited to the "Trial Court Trust Fund" which is funded by guilty

verdicts on traffic court cases and the penalty assessments imposed on every case which annually collects some 1.8 billion dollars see Exhibits 1 page 8 and Exhibit 2 at 11 states the annual revenue going to the trial Court Trust Fund is some 1.8 billion dollars.

27. Traffic Courts in California routinely impose exorbitant penalty assessments/fines and fees on all traffic court cased over and above the statutory fines for imposed to public the public safety, Codified as California Vehicle Code § 42008.8 (a) (b).

28. Defendants Judicial Council and Superior Court County of Sacramento policy and practices creates this "Structural Conflict of Interest" where defendant Superior Court judicial officer admitted that in the Reporters' transcript **"I'm not ..I'm not in a position to rule the constitutionality of something."** Even through the Constitution is the Supreme Law of the Law and here the Defendant Superior Court acts are done to maximize the collection of penalty assessments fines and fees in violation of the 14th Amendment Due Process of Law and 8th Amendment excessive fines of some $1,540.00 all done to directly fund the Trial Court Trust Fund. See Exhibit 6 at page 42.

29. Defendants Judicial Council and Sacramento Superior Court failures to comply with the United States Supreme Court clearly established law, (Beardon vs. Georgia), that a defendant cannot be punished for his inability to pay a fine imposed when the judicial officer refused to hear plaintiff's request on July 8, 2015, for an ability to pay hearing, which the judicial officer denied and imposed an additional $650.00 and required plaintiff herein pay the full amount and suspended plaintiff's drivers license all done in furtherance of the defendants 'Structural Conflict of Interest' created for the sole purpose to fund the complete operation of the trial court including payment of her salary and benefits. See Exhibit 7 at page 43.

30. Defendants herein at the request of this very Court entered into a stipulation to provide plaintiff with an ability to pay hearing of the $1,540.00 penalty assessments imposed against plaintiff and the suspension of his drivers' license until the exorbitant fees are fully paid, see Exhibit 8 at page 44.

31. Plaintiff submitted the Defendants' form "Ex Parte Application for Modification

of Sentence Based upon the Ability to Pay showing that Plaintiff had no ability to pay the penalty Assessments fines and fees imposed by Defendant Superior Court as plaintiff was at all times on a public benefits program, (Med-Cal), and which required a reduction of the penalty assessments under Rule 4.355 (c) (1) (4) see Exhibit 9 at pages 45-47.

32. Defendant Superior Court not only denied said application on the ability to pay but actually by letter from defense legal counsel (Michael Fox), on Feb. 8, 2017, imposed an additional penalty payment on plaintiff of $50.00 to GC Services, which does not reduce the penalty assessments, but is a fee required to enroll in an "Amnesty Program" without making a determination on plaintiff's ability to pay, when in fact plaintiff does not even have $266.00 required to even start the "Amnesty program", see Exhibit 10 at pages 48-50.

33. Defendant Superior Court incentive to collect the whole penalty assessments and fines and fees is shown in the judicial officer's denial of plaintiff's Ex Parte Application which never addressed the ability pay and actually imposed an additional payment of $50.00 which there is no state statute authorizing said payment to GC Services.

34. These acts of the Defendant Superior Court proves that the Judicial Officer's first looks is to maximizes the cash flow to the Trial Court Trust Fund by imposing full payment of every penalty assessments regardless of the traffic court's defendants ability to pay as these very judicial officers' income and benefits are at stake and come first as according to the Traffic Court judicial officer in plaintiff's case asserted that the judicial officer is not permitted to rule on Constitutional Issues it is strictly prohibited as the exhibits show a pattern by Defendant Superior Court has no intentions of reducing any traffic court defendants penalty assessments, fines and fees as the vey funding for the trial court trust come first over a defendants' rights to an ability to pay hearing. See Exhibit 6 at page 42.

35. Defendants practices policies place the burden of funding of the trial court on all traffic court defendants who elect to proceed to a trial is borned by defendants in traffic court as there is not prospect for a neutral and detached judge in the first instance as the interest of the Judicial Officer must continue to fund the operation of the very court which

is required to maintain the day to day funding as the State budget does not fund trial court and as such this creates "Structural Conflict of Interest" to fund the trial court trust fund first and deny each and every traffic court defendant their federal rights to a neutral and detached judicial officer.

36. Defendant California Judicial Council use of the earmarking imposing penalty assessments fines and fees to generate revenue for court operations and its budgetary operations violate plaintiff federal constitutional rights to a fair hearing in the trial court as it places the Judicial Officer to fund the court first over plaintiff's rights to a fair and impartial decision maker.

37. Defendants herein acts in this case in entering into a stipulation that they would entertain plaintiff Ex parte Application for Modification of Judgment on the Ability to Pay was done in bad faith as not only was the request summarily denied without any hearing but the Judicial Officer conveyed an offer to plaintiff via defense legal counsel that the only way plaintiff can have drivers license reinstated is to pay the full amount and actual increased the fine by another $50.00 requiring plaintiff to make a payment to GC Services which does not even reduce the $1,540.00 penalty assessments. Fines and fee and which is not authorized by State Law, see Exhibit 8 page 44 and compare Exhibit 11 at page 52.

38. It is illogical to expect that a court to be self funding through imposing penalty assessments and fines and fees as it would create not only the appearance of a denial of Due Process but an actual violations of Due Process of Law as the Trier of Fact imposition of penalty assessments, fines and fees, which have no relationship to the operation of the statutory penalty for protection of public safety, as here the statutory penalty was $70.00 but penalty assessment, fines and fees are $1,540.00 which is a 2,300% increase all done to solely fund the trial courts trust fund in California, which is sued as the sole source of funding for the courts.

39. Defendants' Court policy and practices of funding all of the trial court's operation by the imposition of penalty assessments, fines and fees imposed after a guilty verdict by the judicial officers creates a situation in which requires the judicial officer to

forget the burden of proof required to convict the defendants and "not to hold the balance nice, clear and true between the state and the accused."

40. Here defendants sole purpose here is to collect the full amount of the $1,610.00 penalty assessments fines and fees despite the showing of very limited income and having no ability to pay the penalty assessments fines and fees of $1,540.00 and done solely to maintain the high contributions to the trial court trust fund for the continuing operations of the trial court and payment of all judicial officer throughout the State of California and to never reduce the penalty assessments based upon the ability to pay of the traffic court defendants, which is done to maintain the high level of funding for the court.

41. Defendants funding of the State Trial Court is unconstitutional as the defendants Judicial Council and Sacramento County Superior Court controls the financial assessments which gives the judicial Officers an incentive to generate income for the trial courts which deprives defendants of their rights to a neutral and disinterested judicial officer at any hearing including the ability to pay hearing.

42. Plaintiff herein has absolutely zero chances of receiving a fair and impartial determination of the ability to pay hearing by defendant Superior Court, as can be showing by the hearing officer who ruled on plaintiff's Ex parte Application for Modification of Sentence based upon the ability to pay under Rule 4.335 (c) (1) & (4), who be way of settling this case actual imposed an additional $50.00 fine payable to a debt collection assigned by the defendant Superior Court see Exhibit 10 pages 48-50.

43. Defendants acts of full funding the Trial Court is unconstitutional as it requires that the State Government must full fund the trial court as permitting the judicial officer to make the judicial officers partisan to maintain the high level of contribution from guilty verdict in traffic court and imposition of penalty assessments, fines and fees to fully fund the trial court through the Trial Court Trust Fund is unconstitutional as the gives the judicial officer an incentive to generate income for the trial court.

44. Plaintiff has no prospect of ever having his life time suspension of drivers license reinstated as defendant Superior Court position is that they punish plaintiff due to poverty

and being able to pay the penalty assessments which fully fund the California Trial Court system in violation of the Beardon vs. Georgia.

FIRST CAUSE OF ACTION
FOR VIOLATION OF DUE PROCESS CLAUSE
OF THE FOURTEENTH AMENDMENT
TITLE 42 U.S.C. § 1983

45. Plaintiff realleges and incorporates by reference each and every allegation set forth in paragraphs 1-44

46. The Due Process Clause prevents a denial of judicial officers who have a direct pecuniary interest /financial interest in the outcome of the proceeding from a hearing a case.

47. Defendants Judicial Council and Superior Court of Sacramento County policies and practices by funding of the State Trial Court by having the judicial officers imposing penalty assessments, fines and fees on all traffic court defendants for the sole purpose of fully funding the state trial court.

48. Defendants policies and practices creates a "Structural Conflict of Interest" which creates an incentive to the judicial officer find traffic court defendants guilty and coerce payments from traffic court defendants or their drivers licenses will be suspended for life.

49. Defendants Policies and Practices which deprives traffic court defendants to a neutral and detached judge in the first instance which has never happened herein and nor can it happen even at an ability to pay hearing as the judicial officers "Structural Conflict of Interest creates an incentive to impose the full payment of the exorbitant penalty assessments of some 2,300% over the statutory fine so the judicial office can collect their salary and benefits, which is the only funding permitted by the State of California, see California Government Code sections 68085 (a) (1) and 77003.

50. Plaintiff has no ability to obtain an Ability to Pay Hearing from a Neutral and detached judge, as every judicial Officer's salary and benefits are paid from the very trial court trust fund which the very penalty assessments fines and fees are actually deposited into.

51. Plaintiff herein is suffering irreparable damages as a direct and proximate result of the Defendants Judicial Council and Sacramento County Superior Court violations of plaintiff federal protect constitutional rights to have a neutral and detached judicial officer who has no direct pecuniary interest in hearing the ability to pay hearing as defendants Superior Court judicial Officers salaries and benefits are paid solely from the very penalty assessments imposed and there are no other source of payments for the salary and benefits.

52. Plaintiff has no prospect under Defendants policies and practices of both the defendants Judicial Council and Superior Court to ever have his driver's license reinstated as defendants practices and policies requires the Judicial Officers to impose the maximum penalties to insure that the Judicial Officer will be paid their salaries and benefits as it is the only source of payments is from the Trial Court Trust Fund there is no other source of funding by the State of California.

53. Defendants Judicial Council and Superior Court of Sacramento County acts are excess of their jurisdiction as it prevents each and every traffic court defendant from receiving a decision by a neutral and detached judicial officers as under Defendants theory all traffic court defendants are guilty and should pay for the day to day operations of the trial court plus the salaries and benefits of all the judicial officers and all traffic court defendants are not entitled to a neutral decision maker at any time in the process.

54. As a direct and proximate result of the defendants Judicial Council and Superior Court of Sacramento actions, plaintiff have and continues suffer, irreparability injury to plaintiff's Constitutional Rights as plaintiff has no ability to receive a neutral and detached judicial officer who does not have a direct pecuniary interest in the reduction of the penalty assessments fines and fees imposed as defendants judicial council and superior court current source funding for trial court judges is solely dependent on payment of the salary

and benefits from penalty assessments fines and fees.

55. Declaratory and injunctive relief and a TRO is necessary to remedy the defendants illegal and unconstitutional violation of plaintiff's rights which denies plaintiff's rights to neutral and detached judicial officer as under current funding provisions of California Government Code sections 68085(a) (1) and 77003 the total funding of the trial court all done from penalty assessments, fines and fees as the only way the judicial officer can get paid is from the finding all traffic court defendants guilty and impose the exorbitant penalty assessment all done to provide the only funding to the trial court as well as the only way that the judicial officer can be paid is from the penalty assessments imposed upon a traffic court conviction.

SECOND CAUSE OF ACTION
VIOLATION OF EXCESSIVE FINES CLAUSE
OF THE EIGHTH AMEMDMENT TO THE
UNITED STATES CONSTITUTION

56. Plaintiff realleges and incorporates by reference each and every allegation set forth in paragraphs 1 through 55 above.

57. The Excessive Fines Clause of the Eight Amendment to the United States Constitution prohibits the State Government from imposing a monetary penalty that is grossly disproportionately to the offense it is designated to punished.

58. Plaintiff's statutory penalty for making a right turn on a red light is a $35.00 penalty and plaintiff has two counts so the maximum penalty would be $75.00; however, irrespective of plaintiff's rights to be free from Excess fines defendants imposed additional fines of $1,540.00 for making a Right Hand turn on a red light making the total fine to be $1,610.00. See Exhibit 7 page 43.

59. Defendants Judicial Council and Superior Court of California, County of Sacramento's policy and practices of why to impose said penalty assessments fines and fees was done for the sole purpose to fund the operations of trial court and to pay the salaries

and benefits of the judicial officers who fund plaintiff guilty, imposed the penalty assessments and denied the ability to pay hearing as well as the Ex Parte Application for Modification of Sentence Base Upon the Ability to Pay.

60. Defendant Sacramento County Superior Court, Judicial Officer who denied plaintiff's Ability Pay hearing actually imposed an additional $50.00 penalty against plaintiff when defendants required plaintiff to pay GC Services a $50.00 enrollment fee in which there is no credit against the $1,540.00 penalty assessments and the $50.00 is not authorized by State Statute.

61. Defendants Judicial Council and Sacramento County Superior Court practices of imposing Excess Fines in violations of the 8th Amendments is done for one reason is force plaintiff to pay the exorbitant fees or plaintiff's drivers' license will be suspended for life or until exorbitant penalty assessments are full paid, see exhibit 7.

62. Defendants Judicial Council and Superior Court of Sacramento County have no rational basis for imposing the $1,540.00 penalty assessment fines and fees which are being done to illegally fund the very trial court.

63. Defendants Judicial Council, Superior Court California County of Sacramento and Jean Shiomoto then in furtherance of defendants illegal violations of plaintiff federal constitutional Rights suspended plaintiff's drivers license for non-payments of the exorbitant penalty assessments for life or until the full payment of the $1,610.00.

64. Defendant Superior Court County of Sacramento even after plaintiff filed this very action Defendant Superior Court offer by defense legal counsel asserted that defendant Court will not reduce the penalty assessments fines and fees so "the total fine must be reasonable and compatible with the defendant's financial ability. See Exhibit 10.

65. In Fact the Judicial Officer through legal counsel asserted that the only way that plaintiff can get his drivers' license reinstated is to pay the full amount and plus a pay an additional $50.00 to GC Services, which is not even authorized by state law. see Exhibit 10 pages 48-50

66. Declaratory and injunctive relief and a TRO is necessary to remedy the defendants unconstitutional conduct as the currently statutory funding provisions of the State's trial court procedure cannot be deemed constitutionally acceptable because the State has not capability of ever offering a plaintiff an impartial adjudication of his ability to pay hearing that plaintiff is entitled to as a matter of clearly established law to a neutral and detached judge in the first instance on his ability to pay hearing based, Ward at Page 409 U. S. 62.

THIRD CAUSE OF ACTION FOR DAMAGES
AGAINST DEFENDANT JEAN SHIOMOTO
UNDER COLOR OF STATE LAW
AS DIRECTOR OF DMV

67. Plaintiff realleges and incorporates by reference each and every allegation set forth in paragraphs 1 through 66 above.

68. Defendant Jean Shiomoto as Director of California Department of Motor Vehicles policies and practices are contrary to clear established United States Supreme Court Law, which requires that prior to any suspension of a driver's license requires a hearing by the department of motor vehicles mandated by clearly established United States Supreme Court Law.

. 69. Defendant Director of DMV is well aware of those requirements as the very department has been successfully sued and had to pay some 5.6 million dollars for illegal suspension of drivers' licenses.

70. Here defendant Shiomoto while operating under Color of State Law has suspended plaintiff's driver's license for life and has at all times refused to provide a hearing on the ability pay and refused at all times to provide a pre-suspension hearing to make any determinations.

71. Defendant Shiomoto suspension was predicated upon the imposition of penalty assessments fines and fees without any ability hearing in which the trial court imposes these penalties for the sole purpose to fund both the trial court trust fund as well as payments of the trial courts' judicial officers salaries and benefits, thusly creating a"Structural Conflict of interest and

incentive to insure that the trial court judicial officers impose a sufficient number of guilty verdicts and impose the maximum penalty assessments so that all judicial officers can be paid and collect their benefits see California Government Code §§ 68085 (1) (a) and 77003.

72.. Defendant Shiomoto knew at all times that plaintiff's suspension was not for public safety but was punishment for not paying the exorbitant penalty assessments which are generated solely to fund the trial courts in violation of clearly established Federal Law, by the United States Supreme Court.

73. Defendant Shiomoto knew at all times that the State of California could not punish a traffic court defendant based upon their failure to pay an exorbitant penalty assessments which is used implemented to pay the very judicial officers salary and benefits.

74. Defendant Shiomoto her acts were done knowingly in violation of Federal Law and were done with Malice, willfully, wantonly and maliciously chose to proceed by suspending plaintiff;' drivers license knowingly to punish plaintiff in direct violation of clearly established federal law even done after plaintiff notified defendant Shiomoto of these illegal acts.

75. Defendant Shiomoto refused to correct these illegal acts and just continued in her on toward ways.

76. Plaintiff has been injured by defendant Shiomoto acts under Color of State law in violation of title 42 USC § 1983 in defendant Shiomoto reckless and total disdain of the controlling established federal law.

77. Defendants Shiomoto acts were and are being done maliciously, wantonly to further injure plaintiff and punitive damages must imposed against defendant Shiomoto for her total disregard for the rule of law as the Department had already been held to violate the law and had a judgment imposed of some 5.6 million dollars for the very same acts.

78. Defendant Shiomoto has deprived plaintiff of his drivers' license for some 19 months all done illegal in direct violation of United States Supreme clearly established law.

79. Plaintiff has been serious injured by these blatant acts of defendant Shiomoto who knowingly decided to violate clearly established law and violate plaintiff federal constitutional rights and done maliciously in wanton disregard of plaintiff's rights to a pre-suspension hearing.

REQUESTED RELIEF

WHEREFORE, plaintiff respectfully requests that this Court provide the following relief:

a. In panel a Three Judge Court pursuant to 28 U S C § 2284 to declare the Defendants' scheme to fund 100% of the trial court operations as unconstitutional:

b. Issue a Preliminary Injunction declaring that the defendants'' policies, practices, acts and/or omissions as described herein are unlawful and violate Plaintiff's rights under the Constitution and laws of the United States of a fair and impartial decision maker in traffic court proceedings:

c. Preliminary and permanently enjoin the defendants, their subordinates, agents, employees, representatives, and all others action or purporting to act in concert with them or on their behalf from funding the trial court via penalty assessments, fines fees which sole purpose was and used for fully funding the court:

d. Prohibiting and enjoining defendants, their subordinates, agents employees, representatives, and all other acts in concert with them or on their behalf from issuing or process of orders of driver's licenses suspension for unpaid traffic Court judgments until such time as defendants provide an ability to pay hearing which complies with Due Process of Law i.e. a fair and impartial decisions maker;

e. Preliminarily and permanently issue an injunction ordering defendants to reinstate Plaintiff's drivers license suspended based upon an unpaid traffic court judgment and enjoining defendants from requiring plaintiff to pay for the reinstatement of plaintiff drivers' license as a condition of such reinstatement.

f. Order defendants to stop the imposition of penalty assessments and fines and fees on traffic tickets that are not geared not toward addressing public safety, but rather toward raising revenue for the day to day operations of the Court system as it cast doubt on the impartiality of the tribunal, which creates a "Due Process" violation as the judicial Officer has a direct/indirect pecuniary interest in imposing the assessments/fines and erode trust between local governments and their constituents;

g. Order defendant Director of DMV to notify all traffic court defendants that have had their drivers licenses suspended without proving an ability pay hearing as is required by federal law;

h. For actual damages against the defendant Shiomoto as Director of DMV while operating under Color of State Law for suspension of plaintiff's drivers license without a Due Process of Law hearing on the ability to pay subject to proof;

i. For punitive damages against defendant Shiomoto for her willful violation of while operating under color of State Law as the very Department was put on notice in 2008 by a civil suit which resulted in a settlement of 5.6 million dollars and the Departments continued in its untoward ways and refuses even after requesting a hearing;

j. Award plaintiff his litigation costs pursuant to 42 U.S.C. § 1988 and other applicable law; and

k. Grant all such other relief and further relief as this Court may deem necessary and/or appropriate in the interest of justice.

Dated Feb 23, 2017

Howard Herships

EXHIBIT 1

JUDICIAL COUNCIL OF CALIFORNIA
REPORT OF REVENUE OF THE STATE TRIAL COURT FOR FISCAL YEAR 2015-2016
SHOWING REVENUE OF $1,872,169,432.00
FROM PENALTY ASSESSMENTS FINES AND FEES
FROM TRAFFIC COURT CASES
PAGES 1-8

JUDICIAL COUNCIL OF CALIFORNIA

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HON. TANI G. CANTIL-SAKAUYE
Chief Justice of California
Chair of the Judicial Council

HON. DOUGLAS P. MILLER
Chair, Executive and Planning Committee

HON. DAVID M. RUBIN
Chair, Litigation Management Committee

HON. KENNETH K. SO
Chair, Policy Coordination and Liaison Committee

HON. HARRY E. HULL, JR.
Chair, Rules and Projects Committee

HON. MARSHA G. SLOUGH
Chair, Technology Committee

HON. DAVID M. RUBIN
Chair, Judicial Branch Budget Committee

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Hon. Samuel K. Feng
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Hon. Hannah-Beth Jackson
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Hon. Scott M. Gordon
Hon. David E. Gunn

MR. MARTIN HOSHINO
Administrative Director, Judicial Council

February 10, 2017

Hon. Holly Mitchell
Chair, Senate Committee on Budget and Fiscal Review
California State Senate
State Capitol, Room 5019
Sacramento, California 95814

Hon. Ricardo Lara
Chair, Senate Committee on Appropriations
California State Senate
State Capitol, Room 2206
Sacramento, California 95814

Hon. Philip Y. Ting
Chair, Assembly Committee on Budget
California State Assembly
State Capitol, Room 6026
Sacramento, California 95814

Hon. Lorena Gonzalez Fletcher
Chair, Assembly Committee on Appropriations
California State Assembly
State Capitol, Room 2114
Sacramento, California 95814

Re: *Report of Trial Court Revenue, Expenditure, and Fund Balance Constraints for Fiscal Year 2015–2016*, as required by Government Code sections 68502.5(b) and 77202.5(b)

Dear Senator Mitchell, Senator Lara, Assembly Member Ting, and Assembly Member Fletcher:

Attached is the Judicial Council report required by Government Code sections 68502.5(b) and 77202.5(b) on trial court financial information for fiscal year (FY) 2015–2016. The council respectfully reports the following financial data from all fund sources, by individual trial court, with totals for all trial courts: revenues; expenditures at the program, component, and object levels; and fund balances.

As noted, the revenue, expenditure, and fund balance information is consolidated from all operational fund types: General Fund, Special Revenue Fund, Debt Service Fund, Capital Projects Fund, and Proprietary Fund. This information was compiled from data reported by the trial courts as of June 30, 2016, in their FY 2015–2016 fourth quarter Quarterly Financial Statements.

Attachment 1 displays the FY 2015–2016 total revenues in three categories: state financing sources, grants, and other financing sources. The majority of the courts' revenue in the state financing sources category as well as their total revenue funding is provided by the Trial Court Trust Fund. State financing sources also include reimbursements for court interpreters and other costs. Grant funding for Assembly Bill 1058 (Stats. 1996, ch. 957) child support commissioners/facilitators is a significant portion of grant revenue. Local fees and the recovery of costs for comprehensive collection programs are significant portions of other financing sources of revenue.

Attachment 2 displays total expenditures at either the element or component level. Elements and components refer to expenditures as they relate to court functions and activities. The bulk of the program expenditures are for support of judges and courtrooms as well as services and activities necessary to support criminal, civil, and family and dependency case processing. Definitions for the court program element and component expenditures or component type displayed in Attachment 2 are provided in Attachment 5.

Attachment 3 displays total expenditures by object. An "object" refers to the type of costs incurred, such as salaries, supplies, or equipment. Aside from prior year adjustments, the four areas with reported FY 2015–2016 expenditures were personal services, operating expenses and equipment, special items of expense, and capital costs. The personal services object refers to court employee salaries and benefits. Operating expenses and equipment include, but are not limited to, contracted services and general expenses such as supplies, printing, utilities, information technology, and equipment. Special items of expense comprise items such as juror costs, grand jury costs, and debt service. Lastly, capital costs are court construction expenditures. Nearly all of the courts' expenditures relate to either personal services or operating expenses and equipment.

Attachment 4 displays court fund balances by constraint classification consistent with Governmental Accounting Standards Board (GASB) Statement No. 54, which requires, for reporting periods beginning after June 15, 2010, fund balances to be reported within either the nonspendable, restricted, committed, assigned, or unassigned classifications (see definitions below). On October 20, 2006, the Judicial Council adopted a trial court fund balance policy that required courts to classify their fund balances according to various classifications, including statutory and contractual obligations, planned uses, and operating and emergency funds. On October 29, 2010, the council revised the policy to be consistent with the requirements of GASB Statement No. 54, which also included a requirement that trial courts maintain a minimum operating and emergency fund balance.

The trial courts' ability to carry fund balances for use in the following year allows them to manage their budgets to meet near-term operational obligations as well as achieve intermediate and long-term goals. Government Code section 77203, as of June 30, 2014, limits this ability to carry over fund balances to no more than 1 percent of the courts' operating budget from the prior fiscal year and excludes from this 1 percent cap a number of unspent statutorily restricted monies that trial courts can carry forward from one fiscal year to the next.

Table 1 displays the classifications of FY 2015–2016 ending fund balances for the 58 trial courts combined. Of the total, 91.1 percent of statewide fund balances were nonspendable or beyond the discretion of any individual court, and 7.5 percent were for planned uses ("assigned"), including, but not limited to, one-time employee compensation costs, professional services costs, one-time facilities, technology, and other infrastructure costs. Only 1.4 percent of statewide fund balances were unassigned.

Table 1: Statewide Constraints on Ending Fund Balances as of June 30, 2016

Classifications	Amount	Percentage of Total	
Nonspendable	$12,239,199	5.8%	91.1%
Restricted	70,848,296	33.3%	
Committed	110,820,639	52.0%	
Assigned	16,036,473	7.5%	7.5%
Unassigned	3,004,300	1.4%	1.4%
Classification Total	$212,948,907	100.0%	100.0%

Definitions and examples for these constraint classifications are provided below.

- **Nonspendable Fund Balance.** Funds that are either not expected to be converted to cash, including prepayments, or are legally or contractually required to be maintained intact. Examples of prepaid items are retirement contributions, rent, inventory, and insurance. Amounts that are legally or contractually required to be maintained intact include payroll impress accounts with third parties, and the principal of a permanent fund.

- **Restricted Fund Balance.** Funds on which constraints are imposed externally or by law. An example of an externally imposed constraint is monies received by a grantor that can be used only for the purpose defined by the grant such as AB 1058 child support enforcement grants. Constraints imposed by law include amounts of unspent revenues received—the use of which is statutorily restricted—such as children's waiting room revenues.

- **Committed Fund Balance.** Funds specifically committed to satisfy contractual obligations and constraints imposed by formal action of the Judicial Council. The constraints related to contracts may reflect obligations that are expected to be met within the next fiscal year or crossing multiple years. The constraints imposed by the council include requiring courts to maintain a minimum operating and emergency reserve meant to address temporary cash flow shortages, budgetary deficits, and costs associated with unanticipated or emergency needs.

- **Assigned Fund Balance.** Assigned funds are designated at the policy direction of each court's presiding judge or designee to address strategic goals of the courts. These funds are intended to be used for specific purposes or designations for which there is no current legal or contractual obligation, but are identified as part of courts' responsible fiscal planning in order to meet appropriate management objectives. The council's policy requires courts to report the assigned fund balance using specific categories, including one-time employee compensation costs, professional and consultant services costs, local infrastructure needs, one-time facility costs, and bridge funding. Examples include: funds for furniture; equipment; start-up costs for a new courthouse that are not covered by the State Court Facilities Construction Fund; IT asset replacement or upgrades; or facility renovations not covered by the State Court Facilities Construction Fund. In addition, funds needed to cover anticipated employee benefit payments, such as payment of accrued vacation or sick leave that an employee decides to use during the fiscal year, would be reported here.

- **Unassigned Fund Balance.** This is the residual classification for the General Fund and represents the General Fund balance that has not been identified as nonspendable, restricted, committed, or assigned for a specific purpose.[1]

[1] The General Fund is the only fund that can have a positive unassigned fund balance. Other governmental funds can have deficit unassigned fund balances if caused by nonspendable, restricted, or committed fund balances.

If you have any questions related to this report, please contact Zlatko Theodorovic, Director, Budget Services, Judicial Council, at 916-263-1397.

Sincerely,

Martin Hoshino
Administrative Director
Judicial Council of California

MH/PB

Attachments:

1. FY 2015–2016 Total Revenues—All Funds
2. FY 2015–2016 Total Expenditures by Component or Element—All Funds
3. FY 2015–2016 Total Expenditures by Object—All Funds
4. Constraints on Ending FY 2015–2016 Total Fund Balances—All Funds
5. Element and Component Definitions
6. Judicial Council Fund Balance Policy

cc: Diane F. Boyer-Vine, Legislative Counsel
Danny Alvarez, Secretary of the Senate
E. Dotson Wilson, Chief Clerk of the Assembly
Shaun Naidu, Policy Consultant, Office of Senate President pro Tempore Kevin de León
Alf Brandt, Senior Counsel, Office of Assembly Speaker Anthony Rendon
Anita Lee, Senior Fiscal and Policy Analyst, Legislative Analyst's Office
Tina McGee, Executive Secretary, Legislative Analyst's Office
Emma Jungwirth, Program Budget Analyst, Department of Finance
Margie Estrada, Chief Counsel, Senate Judiciary Committee
Julie Salley-Gray, Consultant, Senate Budget and Fiscal Review Committee
Mark McKenzie, Staff Director, Senate Appropriations Committee
Matt Osterli, Consultant, Senate Republican Fiscal Office
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Paul Dress, Consultant, Assembly Republican Office of Policy & Budget
Peggy Collins, Principal Consultant, Joint Legislative Budget Committee

Cory T. Jasperson, Director, Governmental Affairs, Judicial Council
Zlatko Theodorovic, Director, Budget Services, Judicial Council
Peter Allen, Director, Public Affairs, Judicial Council
Lucy Fogarty, Deputy Director, Budget Services, Judicial Council
Laura Speed, Supervising Attorney, Governmental Affairs, Judicial Council
Brandy Sanborn, Manager, Budget Services, Judicial Council
Patrick Ballard, Budget Supervisor, Budget Services, Judicial Council
Yvette Casillas-Sarcos, Administrative Coordinator, Governmental Affairs, Judicial Council

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Chief Justice of California
Chair of the Judicial Council

HON. DOUGLAS P. MILLER
Chair, Executive and Planning Committee

HON. DAVID M. RUBIN
Chair, Litigation Management Committee

HON. KENNETH K. SO
Chair, Policy Coordination and Liaison Committee

HON. HARRY E. HULL, JR.
Chair, Rules and Projects Committee

HON. MARSHA G. SLOUGH
Chair, Technology Committee

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MR. MARTIN HOSHINO
Administrative Director, Judicial Council

Report title: *Report of Trial Court Revenue, Expenditure, and Fund Balance Constraints for Fiscal Year 2015–2016*

Statutory citation: Government Code sections 68502.5(b) and 77202.5(b)

Date of report: February 10, 2017

The Judicial Council has submitted a report to the Legislature in accordance with Government Code sections 68502.5(b) and 77202.5(b).

The following summary of the report is provided per the requirements of Government Code section 9795.

This Judicial Council report presents trial court financial information for fiscal year (FY) 2015–2016, including: revenues; expenditures at the program, component, and object levels; and fund balance constraints. All data is reported for each trial court and includes totals for all trial courts as well.

Information was compiled from data reported by the trial courts for all fund sources in the FY 2015–2016 fourth quarter Quarterly Financial Statements. For FY 2015–2016, the trial courts reported revenues of $2.484 billion, expenditures of $2.468 billion, and fund balances totaling $212.9 million, of which, based on Governmental Accounting Standards Board Statement No. 54 classifications, $12.2 million was nonspendable, $70.8 million was restricted, $110.8 million was committed, $16.0 million was assigned, and $3.0 million was unassigned.

The full report is available at www.courts.ca.gov/7466.htm.

A printed copy of the report may be obtained by calling 818-558-3115.

JUDICIAL COUNCIL OF CALIFORNIA

Hon. Tani G. Cantil-Sakauye
Chief Justice of California and
Chair of the Judicial Council

Mr. Martin Hoshino
Administrative Director
Judicial Council

Mr. John Wordlaw
Chief Administrative Officer
ADMINISTRATIVE DIVISION

BUDGET SERVICES
Mr. Zlatko Theodorovic
Director

Mr. Patrick Ballard
Supervisor/Primary Author of Report

FY 2015-2016 Total Revenues - All Funds

Source: FY 2015-2016 Quarterly Financial Statement (4th Quarter)

	State Financing Sources								Grants			
Court	Trial Court Trust Fund	Trial Court Improvement and Modernization Fund	Judges' Compensation	Court Interpreter	Civil Coordination Reimbursement	MOU Reimbursements	State Financing Sources Other Miscellaneous	Total State Financing Sources	AB 1058 Commissioner / Facilitator	Other Judicial Council Grants	Non-Judicial Council Grants	Total Grants
Alameda	81,645,561	294,827	681,449	4,564,912		845,523	3,102,047	91,134,319	2,122,675	844,378	1,068,066	4,035,119
Alpine	513,665			354		34,058	20,340	568,417		0		0
Amador	2,241,956			21,074		115,336	51,756	2,430,122	130,271			130,271
Butte	10,131,302	29,216	79,644	174,883		812,355	124,077	11,351,477	467,266	275,447	717	743,430
Calaveras	2,141,581	11,754		11,873		129,028	50,506	2,344,742	276,820	20,500		297,320
Colusa	1,815,713	2,894		90,873		76,929	24,773	2,011,182	128,449			128,449
Contra Costa	44,470,934	138,460	357,382	2,435,831		3,769,201	1,396,192	52,568,000	1,425,335	656,664	129,084	2,211,082
Del Norte	2,418,323			39,659		265,453	94,130	2,817,566	122,047			122,047
El Dorado	7,010,780	23,701		173,831		91,014	213,120	7,512,447	386,051	217,680		603,731
Fresno	48,221,650	133,967	398,453	2,031,887		3,514,242	3,340,364	57,640,563	2,411,426	702,602	121,023	3,235,051
Glenn	2,044,057	3,853		60,528		115,798	54,665	2,278,901	275,190	16,331		291,521
Humboldt	7,104,537	38,826	49,459	134,095		730,226	84,178	8,141,321	167,936	15,070		183,006
Imperial	9,451,656	22,407		556,114		260,296	125,539	10,416,012	280,787	162,213		443,000
Inyo	2,161,788	2,490		58,854		100,597	75,586	2,399,315	160,028	15,062		175,090
Kern	44,080,817	104,900		2,595,573		4,002,304	3,544,269	54,327,862	1,364,564	244,738		1,609,302
Kings	6,874,603	7,480		388,412		639,401	45,118	7,955,014	444,047	32,781		476,828
Lake	3,304,633	8,623		85,426		75,924	9,123	3,483,730	251,638	104,088		355,726
Lassen	2,343,666	2,816		13,225		250,103	7,839	2,617,649	129,938	98,287		228,225
Los Angeles	527,324,719	1,599,899	94,642,547	33,311,997	816,450	6,045,574	18,887,969	682,629,155	9,135,326	875,291	1,367,348	11,377,965
Madera	7,625,247	11,895		512,367		467,583	384,826	9,001,917	369,521	29,289		398,810
Marin	12,567,117	34,077		371,680		136,398	644,512	13,753,784	276,278	25,139	5,000	306,417
Mariposa	1,189,977		11,000	15,098		77,519	22,301	1,315,896	109,821			109,821
Mendocino	4,981,015	6,773	60,000	323,888		158,714	311,771	5,842,162	291,928	270,183		562,112
Merced	11,482,938	32,261		809,924		840,890	774,827	13,940,840	721,112	208,207		929,320
Modoc	931,659	1,252		6,918		51,509	31,967	1,023,304	73,377	172,396		245,773
Mono	1,674,111	1,821	11,000	35,913		50,102	85,641	1,858,588	88,056	45,000	0	133,056
Monterey	18,080,391	102,345	180,500	1,068,314		644,275	277,496	20,353,321	602,433	403,333		1,005,767
Napa	7,451,771	18,084	45,000	523,095		292,708	309,796	8,640,454	346,835	2,380		349,215
Nevada	5,166,298	11,839	45,000	26,631		292,141	95,495	5,637,404	572,371	20,597		592,968
Orange	147,826,642	840,678	1,016,892	9,137,225	49,210	7,344,371	6,958,719	173,173,738	2,630,569	304,435	20,216	2,955,220
Placer	15,755,447	42,574		312,251		658,285	634,797	17,403,353	507,595	92,102		599,697
Plumas	1,243,923	2,884		5,937		36,996	14,929	1,304,669	214,898	38,583		253,481
Riverside	95,535,364	269,729	12,530,778	3,887,258		7,192,212	923,657	120,338,999	2,188,979	2,188	387,457	2,578,624
Sacramento	78,618,628	186,378	575,518	3,541,746	28,001	1,277,799	3,560,592	87,788,662	1,769,856	237,555	135,752	2,143,162
San Benito	2,557,507	7,751	15,000	94,899		78,687	34,642	2,788,487	233,607			233,607
San Bernardino	92,611,928	267,920	653,314	4,991,440		6,022,236	1,264,733	105,811,571	3,909,947	152,111	293,253	4,355,311
San Diego	151,864,572	449,312		5,638,895	4,962	1,649,246	2,853,599	162,460,585	3,138,758	824,275	29,015	3,992,049
San Francisco	58,201,248	157,656	474,063	2,905,107	6,393	4,628,914	5,487,135	71,860,516	1,617,147	800,997	271,771	2,689,916
San Joaquin	31,046,978	94,323		1,315,836		502,797	1,245,357	34,205,291	1,002,753	719,006	855,875	2,577,634
San Luis Obispo	14,039,964	35,408	84,849	640,313		688,199	298,958	15,787,691	398,245	35,452		433,697
San Mateo	34,429,097	97,399	246,610	1,761,546		821,554	2,411,113	39,767,319	707,333	317,107		1,024,440
Santa Barbara	22,233,049	47,282	195,882	1,402,189		375,480	1,597,662	25,851,543	832,144	52,559	58,731	943,434
Santa Clara	77,979,637	258,149	726,112	3,918,303		870,158	2,309,467	86,061,826	2,735,419	629,992	1,122,546	4,487,958
Santa Cruz	12,105,906	35,289		884,404		184,783	203,558	13,413,939	340,612	333,089		673,701
Shasta	12,130,200	24,411	65,466	229,097		846,021	322,009	13,617,204	701,684	338,016	10,218	1,049,918
Sierra	715,716	0		2,312		46,997	9,616	774,641		18,689		18,689
Siskiyou	3,107,480	41,968	29,342	53,031		346,686	91,038	3,669,546	478,827	18,220		497,047
Solano	20,694,551	56,877	175,347	479,423		399,058	356,369	22,161,624	739,741	139,318	628,140	1,507,198
Sonoma	23,747,322	64,555	35	1,121,681		210,418	1,172,050	26,316,061	936,393	329,455		1,265,848
Stanislaus	20,321,331	69,188		1,091,574		417,670	1,305,230	23,204,992	1,155,824	91,723		1,247,547
Sutter	4,935,903	11,939		237,085		201,721	159,761	5,546,408	325,296	111,083		436,379
Tehama	3,985,314	37,646		142,391		205,196	108,184	4,478,732	150,633	254,488		405,121
Trinity	1,635,402	1,886		15,232		140,413	53,679	1,846,612	43,731	10,978		54,709
Tulare	18,338,068	56,577		1,654,824		876,943	33,744	20,960,156	1,013,294	345,687		1,358,981
Tuolumne	3,193,246		29,692	13,508		217,209	50,352	3,504,007	289,014	76,360	30,000	395,374
Ventura	33,398,107	122,576		1,883,320		1,780,078	968,753	38,152,834	1,150,850	114,426	120,881	1,386,157
Yolo	9,436,898	37,613	82,192	632,424		609,000	210,077	11,008,204	334,170	2,911	0	337,081
Yuba	4,027,540	8,101		38,205		260,516	90,867	4,425,230	342,218	259,814		602,033
Total	1,872,169,432	5,972,530	113,462,527	98,474,684	905,017	63,774,841	68,920,870	2,223,679,900	53,021,067	12,108,273	6,655,093	71,784,433

EXHIBIT 2

LEGISLATIVE ANALYST'S OFFICE REPORT

IMPROVING CLAIOFNRIA'S CRIMINAL FINE AND FEE SYSTEM

PAGES 9-28

LAO Legislative Analyst's Office
The California Legislature's Nonpartisan Fiscal and Policy Advisor

LAO Report
January 5, 2016

Improving California's Criminal Fine and Fee System

Executive Summary

California's Criminal Fine and Fee System. Upon conviction of a criminal offense (including traffic violations), individuals are typically required by the court to pay various fines and fees as part of their punishment. Collection programs—operated by both courts and counties—collect payments from individuals and then distribute them to numerous funds to support various state and local government programs and services. Distribution occurs in accordance to a very complex process dictated by state law.

Key Problems With Existing Fine and Fee System. Based on our analysis of the state's existing fine and fee system, we identified four major problems with the system.

- ***Difficult for Legislature to Control Use of Fine and Fee Revenues.*** The existing system distributes fine and fee revenue based on various statutory formulas, making it difficult for the Legislature to control how such revenue is used. This is because the current formula–based system limits the information available to guide legislative decisions, makes it difficult for the Legislature to reprioritize the use of revenue, and allows administering entities to maintain significant control over the use of funds.
- ***Revenue Distributions Generally Not Based on Need.*** The existing system distributes revenue in a manner that is generally not based on program need—thereby resulting in programs receiving more or less funding than needed.
- ***Difficult to Distribute Revenue Accurately.*** The complexity of the existing system makes it difficult for collection programs to accurately distribute fine and fee revenue.
- ***Lack of Complete and Accurate Data on Collections and Distributions.*** A lack of complete and accurate data on fine and fee collections and distributions makes it difficult for the Legislature to conduct fiscal oversight.

LAO Recommendations. To address the above problems, we make recommendations to improve the state's fine and fee system. First, we recommend that the Legislature reevaluate the overall structure of the fine and fee system to ensure the system is consistent with its goals. As part of this process, the Legislature will want to determine the specific goals of the system, whether ability to pay should be incorporated into the system, what should be the consequences for failing to pay, and whether fines and fees should be regularly adjusted. Second, we recommend increasing legislative control over the use of criminal fine and fee revenue to ensure that its uses are in line with legislative priorities by (1) requiring that most criminal fine and fee revenue be deposited in the state General Fund, (2) consolidating most fines and fees into a single, statewide charge, (3) evaluating the existing programs supported by fine and fee revenues, and (4) mitigating the impacts of potential changes to the fine and fee system on local governments.

Introduction

Individuals convicted of criminal offenses, including traffic violations, are often required to pay a number of fines and fees as part of their punishment. The revenue from these payments are deposited in specific funds to support various state and local government programs and services. In recent years, a number of these funds have faced operational shortfalls due to a decline in fine and fee revenue. At the same time, the Legislature has expressed concern with the level of the state's fines and fees and their impact on low–income individuals. In order to help address both of these issues, the Legislature recently took steps to (1) temporarily redirect monies to specific state funds experiencing shortfalls in fine and fee revenue and (2) provide onetime relief to individuals who were unable to pay the fines and fees for certain traffic violations. While these actions address some of the concerns and challenges with the state's existing fine and fee system on a temporary basis, there are opportunities for the Legislature to make ongoing improvements.

In this report, we: (1) provide background information on California's criminal fine and fee system, including how fines and fees are calculated and distributed; (2) identify problems with the existing system; and (3) make recommendations to improve the system. In preparing this report, we spoke with Judicial Council staff, trial court administrators and judges, and county staff throughout the state in order to gain an in–depth understanding of how fines and fees are calculated, distributed, and use... ...e also analyzed various reports and data compiled by the ...ial branch and the State Controller's Office. Finally, we talked to officials from other states regarding their fine and fee systems.

California's Criminal Fine and Fee System

What Are Criminal Fines and Fees?

During court proceedings, trial courts typically levy fines and fees upon individuals convicted of criminal offenses (including traffic violations). As we discuss below, the total amount owed by an individual consists of a base fine, as well as various additional charges (such as other fines, fees, forfeitures, penalty surcharges, assessments, and restitution orders). Collectively, these various fines and fees are often referred to as court–ordered debt, which is the focus of this report. (Parking violations are not considered court–ordered debt as state trial courts do not administer such violations.)

How Are Criminal Fine and Fee Levels Set?

Trial Courts Determine Total Amount Owed. Trial courts are responsible for determining the total amount of fines and fees owed by individuals upon their conviction for a criminal offense. This calculation begins with a base fine that is set in state law for each criminal offense. For example, as shown in Figure 1, the base fine for the infraction of a stop sign violation is $35, while the base fine for the misdemeanor of driving under the influence (DUI) of alcohol or drugs is $390. State law then requires the court to add certain charges to the base fine, which can significantly increase the total amount owed. Some of these additional charges are calculated using the base fine. For example, the state penalty assessment consists of adding $10 for every $10 portion of the base fine. Others are flat charges, such as the court operations assessment of $40 per conviction. On a limited basis, state law also authorizes counties and courts to levy additional charges depending on the specific violation and other factors. Some of these additional charges require the county board of supervisors to approve a resolution before it may be imposed. Finally, statute gives judges some discretion to reduce the total amount owed by waiving or reducing certain charges. As shown in the figure, the total payment owed by an individual can be many times greater than the base fine.

Figure 1

Various Fines and Fees Substantially Add to Base Fines

As of September 1, 2015

	How Charge Is Calculated	Stop Sign Violation (Infraction)	DUI of Alcohol/Drugs (Misdemeanor)
Standard Fines and Fees			
Base Fine	Depends on violation	$35	$390
State Penalty Assessment	$10 for every $10 of a base fine[a]	40	390
County Penalty Assessment	$7 for every $10 of a base fine[a]	28	273
Court Construction Penalty Assessment	$5 for every $10 of a base fine[a]	20	195
Proposition 69 DNA Penalty Assessment	$1 for every $10 of a base fine[a]	4	39
DNA Identification Fund Penalty Assessment	$4 for every $10 of a base fine[a]	16	156
EMS Penalty Assessment	$2 for every $10 of a base fine[a]	8	78
EMAT Penalty Assessment	$4 per conviction	4	4
State Surcharge	20% of base fine	7	78
Court Operations Assessment	$40 per conviction	40	40
Conviction Assessment Fee	$35 per infraction and $30 per felony or misdemeanor conviction	35	30
Night Court Fee	$1 per fine and fee imposed	1	1
Restitution Fine	$150 minimum per misdemeanor conviction and $300 minimum per felony conviction	—	150
Subtotals		**($238)**	**($1,824)**
Examples of Additional Fines and Fees That Could Apply			
DUI Lab Test Penalty Assessment	Actual costs up to $50 for specific violations	—	$50
Alcohol Education Penalty Assessment	Up to $50	—	50
County Alcohol and Drug Program Penalty Assessment	Up to $100	—	100
Subtotals		**(—)**	**($200)**
Totals		**$238**	**$2,024**

[a] The base fine is rounded up to the nearest $10 to calculate these additional charges. For example, the $35 base fine for a stop sign violation is rounded up to $40.

DUI = Driving Under Influence; EMS = Emergency Medical Services; and EMAT = Emergency Medical Air Transportation.

Fine and Fee Levels Set to Serve Multiple Purposes. The state has enacted various fines and fees for a variety of purposes. Some, such as the base fine and the restitution fine, are generally tied to the seriousness of the crime. Others were enacted to generate revenue to fund specific activities. For example, two DNA penalty assessments support the Department of Justice's DNA Laboratory and other local DNA–related activities. Finally, some fines and fees were enacted to help offset state or local costs for providing particular services to individuals paying the specific charge. For example, the night court fee is used to offset facility costs for trial courts that choose to conduct night or weekend sessions for traffic offenses. The fee may not be charged if ...

sessions are not conducted. Over the past de... , the number and size of charges added to the base fine h... increased significantly—resulting in increases in the total amount owed by individuals convicted of criminal offenses. For example, as shown in Figure 2, the total fine and fee level for a stop sign violation has increased significantly since 2005. (As discussed in the nearby box, fine and fee levels in California for criminal violations generally appear to be high relative to other states.)

Figure 2

Total Fine and Fee Level for Stop Sign Violation Has Increased Significantly Since 2005[a]

	Stop Sign Violation (Infraction)		
	2005	2015	Change
Base Fine	$35	$35	
State Penalty Assessment	40	40	—
County Penalty Assessment	28	28	—
Court Construction Penalty Assessment	20	20	—
Proposition 69 DNA Penalty Assessment	4	4	—
DNA Identification Fund Penalty Assessment	—	16	$16
EMS Penalty Assessment	—	8	8
EMAT Penalty Assessment	—	4	4
State Surcharge	7	7	—
Court Operations Fee	20	40	20
Conviction Assessment Fee	—	35	35
Night Court Fee	1	1	—
Totals	$155	$238	$83

[a]Depending on the specific violation and other factors, additional county or state assessments may apply.

EMS = Emergency Medical Services and EMAT = Emergency Medical Air Transportation.

Certain Criminal Fines and Fees Appear Higher Than Certain Other States

Currently, comprehensive information is not available on the criminal fine and fee levels of other states. However, in order to compare California's fine and fee levels to the rest of the nation, we surveyed other states. Specifically, we surveyed one large jurisdiction in each of 33 states (including many states similar to California) for the fines and fees associated with the two offenses: a stop sign violation and speeding at 20 miles per hour over the limit. We found that California's fines and fees associated with these common traffic offenses are relatively high. For example, the total fines and fees for a stop sign violation in California is $238, which was higher than 28 of the surveyed states (about 85 percent). The total in other surveyed states ranged from $58 to $277, and averaged $157. The total fines and fees for speeding at 20 miles per hour over the limit in California was $367, which was higher than all of states we surveyed. The total in other surveyed states ranged from $73 to $350, and averaged $203.

How Are Criminal Fines and Fees Collected?

Counties and Courts Involved in Collection Process. While trial courts are responsible for determining the amount of fines and fees owed by individuals, counties are statutorily responsible for collecting fine and fee payments. However, some collection duties are often delegated back to the trial courts. As a result, collection programs may be operated by both courts and counties. Individuals who plead guilty or are convicted of a criminal offense must either provide full payment immediately or set up installment payment plans with the collection program. If an offender does not pay on time, the amount owed becomes delinquent.

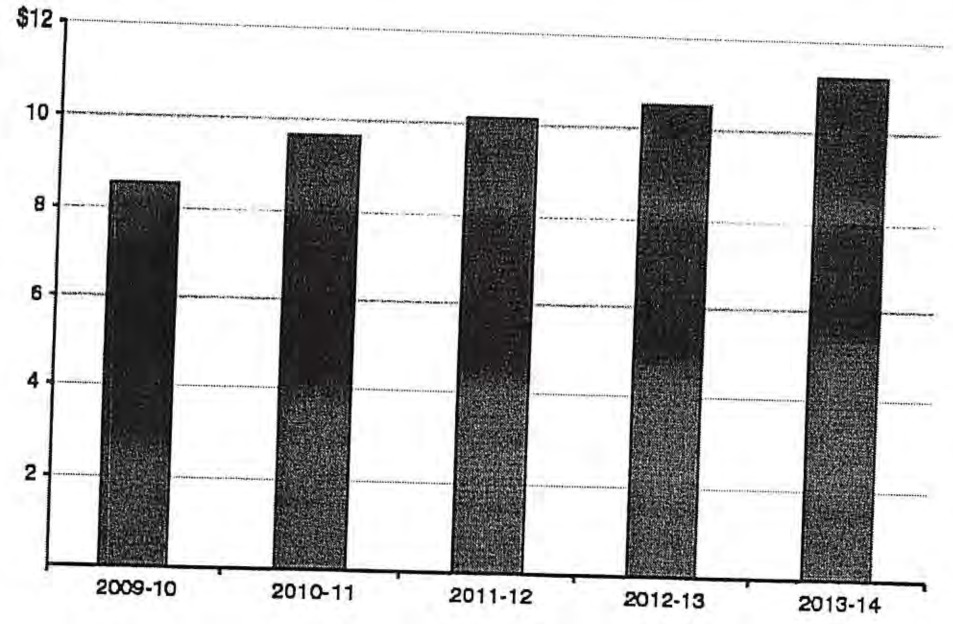
State law authorizes the collection program to use a variety of tools or sanctions (such as wage garnishments or the suspension of a driver's license) to motivate offenders to pay their debt. Additionally, in lieu of issuing an arrest warrant, state law authorizes collection programs to impose a civil assessment of up to $300 against any offender who fails to either make payment or appear in court without good cause. Finally, state law permits collection programs that meet specified criteria to recover most operating costs related to the collection of delinquent payments prior to distribution to various state and local funds. (Please see our November 2014 report, *Restructuring the Court–Ordered Debt Collection Process*, for more detailed information regarding the debt collection process.) Since 2009–10, programs reported collecting a total of roughly $1.8 billion in fine and fee revenue annually. However, this amount may be understated due to incomplete reporting by collection programs.

Amount of Outstanding Debt Increasing. Every year, the courts estimate the total outstanding balance of debt owed by individuals. This balance may decrease when individuals make payments or debt is resolved in an alternative manner, such as when a portion of a debt is dismissed because the individual performs community service in lieu of payment. However, this amount generally grows each year as some amount of newly imposed court–ordered debt goes unpaid and is added to the amount of unresolved debt accumulated from prior years. As shown in Figure 3, an estimated $11.2 billion in criminal fines and fees remained outstanding at the end of 2013–14. We would note, however, that a large portion of this balance may not be collectable as the costs of collection could outweigh the amount that would actually be collected.

Figure 3

Outstanding Balance of Unresolved Fines and Fees Continues to Grow

(In Billions)



How Are Criminal Fines and Fees Distributed?

As shown in Figure 4, over 50 state funds—in addition to many local funds throughout the state—are eligible to receive fine and fee revenue. However, some of these funds receive very little revenue, such as those that only receive revenue from fines and fees for specific offenses that occur infrequently. For example, the state Voter Intimidation Restitution Fund only receives revenue when an individual is convicted of voter intimidation. In order to comply with the numerous state laws dictating which funds receive fine and fee revenue, collection programs must carefully track, distribute, and record the revenue they collect. Programs submit this information, along with the revenue, to the county for (1) distribution to county funds and (2) transfer to the State Controller's Office (SCO) for distribution to state funds.

Figure 4

Numerous State and Local Funds Receive Fine and Fee Revenue

State Administered Funds

State General Fund
Abalone and Restoration and Preservation Account
Abandoned Watercraft Abatement Fund
California Beverage Container Recycling Fund
California Fire and Arson Training Fund
California Motorcyclist Safety Fund
Cigarette and Tobacco Products Compliance Fund
Cigarette Tax Fund
Clandestine Drug Lab Clean–Up Account
Contingent Fund of the Medical Board of California
Corrections Training Fund
Court Facilities Trust Fund
Department of Justice DNA Testing Fund
Department of Justice Sexual Habitual Offender Fund
Domestic Violence Restraining Order Reimbursement Fund
Domestic Violence Training and Education Fund
Driver Training Penalty Assessment Fund
Emergency Medical Air Transportation Act Fund
Environmental Enforcement and Training Account
Farmworker Remedial Account
Fish and Game Preservation Fund
Hazardous Materials Administration Subaccount
Home Care Penalties Subaccount
Illegal Drug Lab Cleanup Account
Immediate and Critical Needs Account
Local Public Prosecutors and Public Defenders Fund
Missing Persons DNA Data Base Fund
Motor Vehicle Account
Oil Pollution Administration Subaccount
Oil Pollution Response and Restoration Subaccount
Osteopathic Medical Board of California Contingent Fund
Peace Officers' Training Fund
Pharmacy Board Contingent Fund
Private Security Services Fund
Restitution Fund
Safe Drinking Water and Toxic Enforcement Fund
Secret Witness Program
State Children's Trust Fund
State Court Facilities Construction Fund
State Dentistry Fund
State Fire Marshal Fireworks Enforcement and Disposal Fund
State Highway Account
State Optometry Fund
State Penalty Fund
State Water Pollution Cleanup and Abatement Account
Toxic Substances Control Account
Traumatic Brain Injury Fund
Trial Court Improvement and Modernization Fund
Trial Court Operations Fund
Trial Court Trust Fund
Underground Storage Tank Cleanup Fund
Veterinary Medical Board Contingent Fund
Victim–Witness Assistance Fund
Voter Intimidation Restitution Fund
Waste Discharge Permit Fund
Winter Recreation Fund
Worker's Compensation Fraud Account
Various unspecified funds to support specific activities

County Administered Funds (Per County)

County General Fund
Alcohol Abuse and Prevention Fund
Automated County Warrant Fund
Automated Fingerprint Identification and Digital Image Photographic Suspect Booking Identification System Fund
Children's Trust Fund
Courthouse Construction Fund
Criminal Justice Facilities Construction Fund
Criminal Justice Investigation Fund (Imperial County)
Criminalistics Laboratory Fund
County Jail Fund (Orange and Solano Counties)
DNA Identification Fund
Domestic Violence Programs Special Fund
Drug Program Fund
Fish and Game Propagation Fund
Forensic Laboratory Fund
Inmate Welfare Fund
Juvenile Justice Construction Fund (Kern and Ventura Counties)
Maddy Emergency Services Fund
Night Court Session Fund
Rabies Treatment and Eradication Fund
Real Estate Fraud Prosecution Trust Fund
Special Purpose Funds
Transportation District, Commission, or Authority General Fund
Various unspecified funds to support specific activities

City Administered Funds (Per City)

City General Fund
Various unspecified funds to support specific activities

State law dictates a very complex process for the distribution of fine and fee revenue. As we discuss below, state law specifies how individual fine and fee payments are to be distributed to state and local funds, including additional requirements for when payments are not made in full (such as under an installment plan). Currently, state law contains at least 215 distinct code sections related to these processes.

Distribution Among State and Local Funds. State law (and county board of supervisor resolutions for certain local charges) specifies how payments made to resolve individual fines and fees are distributed among state and local funds. First, state law includes formulas for distributions of certain fines and fees. For example, state penalty assessments are deposited into the State Penalty Fund (SPF) for subsequent distribution to nine other state funds (such as the Victim–Witness Assistance Fund). Statute also requires that a portion of certain fines and fees be allocated to specific purposes (such as to support cost–recovery and the Trial Court Improvement and Modernization Fund) *prior* to distributing revenue to various state and local funds. [illegible] state law authorizes local governments to [illegible]ine how certain fines or fees are to be distributed among [illegible]ous local funds. For example, individual counties choose how payments made to address the county penalty assessment are deposited among several local funds. Finally, state law includes some distributions that vary by criminal offense. Figure 5 provides an example of the distribution of fines and fees for a stop sign violation and DUI violation. As shown in the figure, payments to satisfy the base fine for a stop sign violation are deposited in the Trial Court Improvement and Modernization Fund, as well as in the county and/or city General Fund, depending on where the offense occurs and which law enforcement entity cited the offense. In contrast, payments to satisfy the base fine of a DUI violation are deposited into three additional funds and must be distributed in a particular order under state law. As shown in the figure, these various distribution requirements result in a complex series of deposits into numerous state and local funds.

Figure 5

Examples of Distributions to State and Local Funds

Fine and Fee/Recipient Fund	Stop Sign Violation (Infraction)	DUI Violation (Misdemeanor)
Base Fine		
County and/or City General Fund	$34.30	$264.60
Restitution Fund—DUI Additional Restitution Allocation	—	19.60
Local DUI Lab Test Special Account	—	49.00
Local DUI Alcohol Program Special Account	—	49.00
Trial Court Improvement and Modernization Fund	0.70	7.80
State Penalty Assessment		
State Penalty Fund (subsequently distributed to 9 other state funds)	$27.44	$267.54
County General Fund	11.76	114.66
Trial Court Improvement and Modernization Fund	0.80	7.80
County Penalty Assessment		
Courthouse Construction Fund[a]	$8.82	$86.00
Criminal Justice Facilities Construction Fund[a]	8.82	86.00
Maddy EMS Fund[a]	3.92	38.22
DNA Identification Fund[a]	1.96	19.11
Automated Fingerprint Identification Fund and Digital Image Photographic Suspect Identification Fund[a]	3.92	38.22
Trial Court Improvement and Modernization Fund	0.56	5.46
Court Construction Penalty Assessment		
Immediate and Critical Needs Account[a]	$7.84	$76.44
State Court Facilities Construction Fund[a]	11.76	114.66
Trial Court Improvement and Modernization Fund	0.40	3.90
Proposition 69 DNA Penalty Assessment		
County or State DNA Identification Fund	$3.92	$38.22
Trial Court Improvement and Modernization Fund	0.08	0.78
DNA Identification Fund Penalty Assessment		
DNA Identification Fund	$15.68	$152.88
Trial Court Improvement and Modernization Fund	0.32	3.12
EMS Penalty Assessment		
Maddy EMS Fund	$7.84	$76.44
Trial Court Improvement and Modernization Fund	0.16	1.56
EMAT Penalty Assessment		
EMAT Act Fund	$3.92	$3.92
Trial Court Improvement and Modernization Fund	0.08	0.08
State Surcharge		
State General Fund	$7.00	$78.00
Court Operations Assessment		
Trial Court Trust Fund	$40.00	$40.00
Conviction Assessment Fee		
Immediate and Critical Needs Account	$35.00	$30.00
Night Court Fee		
Court Facilities Trust Fund (State) and Night Court Session Fund (County)	$1.00	$1.00
Restitution Fine		
State Restitution Fund	—	$147.00
Trial Court Improvement and Modernization Fund	—	3.00

Fine and Fee/Recipient Fund	Stop Sign Violation (Infraction)	DUI Violation (Misdemeanor)
DUI Lab Test Penalty Assessment		
County Special Account	—	$49.00
Trial Court Improvement and Modernization Fund	—	1.00
Alcohol Education Penalty Assessment		
Alcohol Abuse and Prevention Fund	—	$49.00
Trial Court Improvement and Modernization Fund	—	1.00
County Alcohol and Drug Program Penalty Assessment		
County Special Account and General Fund	—	$100.00
Totals	$238.00	$2,024.00

*Acutal deposits can vary by county.

DUI = Driving Under Influence of alcohol/drugs; EMS = Emergency Medical Services; and EMAT = Emergency Medical Air Transportation.

Distribution of Debt Not Paid in Full. Further complicating the distribution of fine and fee revenue, state law specifies the order in which payments that are less than the full amount owed are used to satisfy the fines and fees individuals are charged. For example, state law requires that installment payments be credited in a particular order. As shown in Figure 6, all fines and fees fall within one of five distribution categories. The fines and fees in each category must be fully satisfied before payments may be credited to the next category. This means that state and local funds in the lower distribution priorities fail to receive full allocations or receive delayed allocations if payments are not made in full or are delinquent. For partial payments that are not part of an installment payment plan, collection programs can either prorate the payments across (1) all charges equally or (2) any remaining charges after fulfilling those that are set amounts (such as the $40 per conviction court operations assessment).

Figure 6

State Law Specifies How Installment Payments Must Be Distributed

Distribution Priority	Category	Major Beneficiaries	Number of Applicable Code Sections[c]
1	Victim Restitution	Victim and State	6
2	Cost Recovery of Delinquent Collection Costs	Collection Program (court or county)	1
3	State Surcharge	State	1
4	Fines and Penalty Assessments[a] (prorated across category)	State, Court, and County	156
5	Fees and Reimbursements[b] (prorated across category)	Court and County	48

[a] Example of fines and penalty assessments include the base fine and the State Penalty Assessment.
[b] Examples of fees and reimbursements include the Parole/Probation Supervision Fee and the Traffic Violator School Fee.
[c] Additional statutes may apply (such as fees for services).

Who Benefits From Criminal Fine and Fee Revenues?

Below, we discuss our best estimate of the total amount of revenue distributed to state and local governments and how it is divided between them. As we discuss later in this report, due to various data limitations, actual revenue amounts could be higher or lower than our estimates.

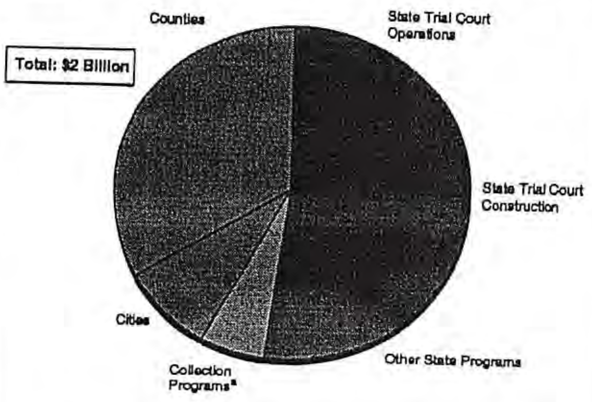
Total Revenue Distributed to State and Local Governments Declining. According to available data compiled by the SCO and the judicial branch, the total amount of fine and fee revenue distributed to state and local governments annually has declined since 2010–11. Specifically, the amount has declined by approximately $200 million—from nearly $2.2 billion in 2010–11 to nearly $2 billion in 2013–14. (As we discuss in more detail later in this report, this amount does not reconcile with the above $1.8 billion that collections programs report collecting in fine and fee revenue annually.) Most state and local funds receiving fine and fee revenue have also experienced a decline in the amount distributed to them. For example, the SPF received nearly $30 million less in 2013–14 than in 2010–11—about a 25 percent decline in revenue. The cause of such declines is unknown but could be due to a variety of factors—including the number of citations issued by law enforcement, individuals' willingness to make payments, and the amount collected by collection programs. For example, the total number of criminal infraction and misdemeanor filings steadily declined by nearly 1.6 million total filings since 2010–11—a decline of about 22 percent. (A more detailed breakdown of deposits into specific state and local funds can be found in the

Half of Revenue Distributed to State. The received a little over $1 billion of the total amount of fin fee revenue distributed in 2013–14. As shown in Figure 7, this represents roughly half of all distributed revenue. Of this amount, a little less than two–thirds went to support trial court operations and construction. The remainder supported various other state programs such as victim–witness assistance, peace officer training, and the state's DNA laboratory. Of the amount allocated to trial courts, roughly half funded statewide trial court construction, and the other half supported trial court operations.

Figure 7

Half of Fine and Fee Revenue Distributed to the State

2013-14



[a] Split between courts (state government) and counties (local government) depending on who is actually collecting delinquent payments.

Collection Programs Receive Share of Revenue. Collection programs received $114 million (or 6 percent) of fine and revenue distributed in 2013–14 for their operational costs related to the collection of delinquent payments. These funds are split between state trial courts and counties depending on which entity incurred the costs.

Remaining Revenue Distributed to Local Governments. We estimate that local governments received $820 million (or 42 percent) of the total amount of fine and fee revenue distributed in 2013–14. Of this amount, $657 million (or 80 percent) went to the counties. We would note, however, that counties often use their share of fine and fee revenue to meet their maintenance–of–effort (MOE) obligations to the state. These MOE obligations—or requirements for counties to continue to provide some financial support for trial courts—were established in 1997 when the Legislature shifted primary responsibility for trial court funding from the counties to the state. To date, annual county MOE obligations to the state for trial court operations total about $660 million.

Key Problems with Existing Fine and Fee System

Based on our analysis of California's existing fine and fee system, we identified four major problems with the system. Specifically, we find that the existing system (1) makes it difficult for the Legislature to control how fine and fee revenue is used, (2) distributes revenue in a manner that is generally not based on program need, (3) makes it difficult for collection programs to accurately distribute such revenue, and (4) lacks complete and accurate data on fine and fee collections and distributions. Figure 8 provides a summary of our findings, which we discuss in more detail below.

Figure 8

Problems With California's Fine and Fee System

- ✓ Difficult for Legislature to control use of fine and fee revenue.
- ✓ Revenue distributions generally not based on need.
- ✓ Difficult to distribute revenue accurately.
- ✓ Lack of complete and accurate data on collections and distributions.

Difficult for Legislature to Control Use of Fine and Fee Revenue

As discussed earlier, the state's existing fine and fee system includes a complex distribution method that disburses monies to funds based on various statutory formulas. These formulas ensure certain programs receive funding annually, which often makes it difficult for the Legislature to control the use of fine and fee revenue. This is because the statutory distribution formulas often have the following effects:

- ***Limited Information to Guide Legislative Decisions.*** Because the current statutory formulas effectively guarantee certain programs funding, these programs are generally not required to regularly provide the Legislature with information on program expenditures and outcomes. This makes it difficult for the Legislature to regularly evaluate how effectively these programs are using the funds they are provided. Although some programmatic information is typically provided when programs require additional funding (such as due to insufficient revenue), the Legislature is often informed of these challenges late in the process when there are few viable options that would not cause major impacts to program operations.
- ***Difficult for Legislature to Reprioritize Use of Revenue.*** Because the existing distribution formulas effectively lock in the uses of fine and fee revenue on an ongoing basis, it is difficult for the Legislature to reprioritize the use of these funds based on changing needs and priorities (such as increasing the amount of revenue allocated to some programs or using these funds to support alternative programs that it deems to be of higher priority). This limits the Legislature's ability to ensure that such funds are being used in a manner that is consistent with its priorities.
- ***Administering Entities Maintain Significant Control Over Use of Funds.*** The current formula–driven system also gives certain state and local entities significant discretion in how they use fine and fee revenue. For example, statute authorizes the judicial branch to determine the specific statewide projects funded by the Trial Court Improvement and Modernization Fund based on broad guidance outlined in statute. The Legislature only receives an annual report on expenditures once the fiscal year is complete. In other cases, entities have complete discretion over the use of certain funds. For example, cities have complete control on how they use the share of their fine and fee revenue that is deposited into their General Funds and are not required to report to the Legislature on how such monies are used. As a result, the Legislature maintains limited control over a significant portion of fine and fee revenues.

Revenue Distributions Generally Not Based on Need

By locking in funding formulas in statute, the existing system preserves the level of funding deemed appropriate when the formulas were established. On the one hand, this can result in some programs receiving more funding than necessary to fulfill their statutory requirements. For example, in some years, the Restitution Fund, the primary funding source for the Victim Compensation and Government Claims Board, received more fine and fee revenue than the board needed to make payments to eligible crime victims. This resulted in the Restitution Fund having an annual balance of over $100 million in unused funds from 2005–06 through 2007–08.

On the other hand, the distribution formulas can result in some programs receiving insufficient funding to fulfill their statutory requirements. For example, over the past decade, the existing formula allocating a specific percentage of SPF fine and fee revenue to the Peace Officers' Training Fund—which supports the Commission on Peace Officer Standards and Training (POST)—has resulted in POST not having sufficient funding to maintain the level of training services previously provided, particularly when there has been a change in the amount of revenue collected. Given this shortfall, the Legislature chose to redirect $14 million annually during this time period from another SPF fund to support POST, as well as provide a one–time $3.2 million General Fund appropriation in 2014–15. The Legislature also approved an 18–month traffic amnesty program as part of the 2015–16 budget and directed that a portion of the additional revenues resulting from the program support POST in the short run. We would note that there are a number of other funds supported by fine and fee revenue that are also nearing or currently experiencing operational shortfalls.

Difficult to Distribute Revenue Accurately

The numerous statutory requirements governing the distribution of fine and fee revenue can also make it difficult for individual courts and counties to track, distribute, and report such revenue accurately and consistently. This is because every charge has its own distribution requirement which can vary based on other factors (such as where the offense occurred). This challenge is further complicated by additional statutory requirements related to how partial and installment payments are to be credited against various charges. This can result in payments for the same type of violation being distributed in different ways. Although some courts and counties have automated computer programs to assist them with this task, these automated programs can sometimes be difficult to correctly program. Other courts and counties do not have such programs and thus still make these calculations manually.

While courts and counties can be fined by the state for certain errors in their distribution of fine and fee revenue, unintentional errors still occur. Because of the numerous and overlapping distribution requirements specified in statute, a distribution error can sometimes impact over 20 state and local funds. This is particularly the case where certain funds receive funding *after* a portion of the revenue is allocated to a different fund. Since errors may not be corrected for several years, it can result in the misallocation of significant sums of money. Distribution errors are regularly found by the SCO, which is authorized to review whether criminal fines and fees have been deposited accurately and in a timely manner. In reviews conducted from 2006 through 2014, the SCO identified $63 million in errors made between 1998–99 and 2012–13. (We would note that the number of reviews conducted—and the fiscal years examined—in a given year varies by county and court.) Of this amount, about $48 million was related to instances where counties did not remit sufficient revenue to the state. We note that the total value of errors made between 1998–99 and 2012–13 is likely higher than $63 million because the SCO audits we examined did not evaluate all distributions occurring over this time period. While the SCO has found that counties and courts generally resolve the cause of most distribution errors identified in its reviews, it frequently finds new errors in subsequent reviews.

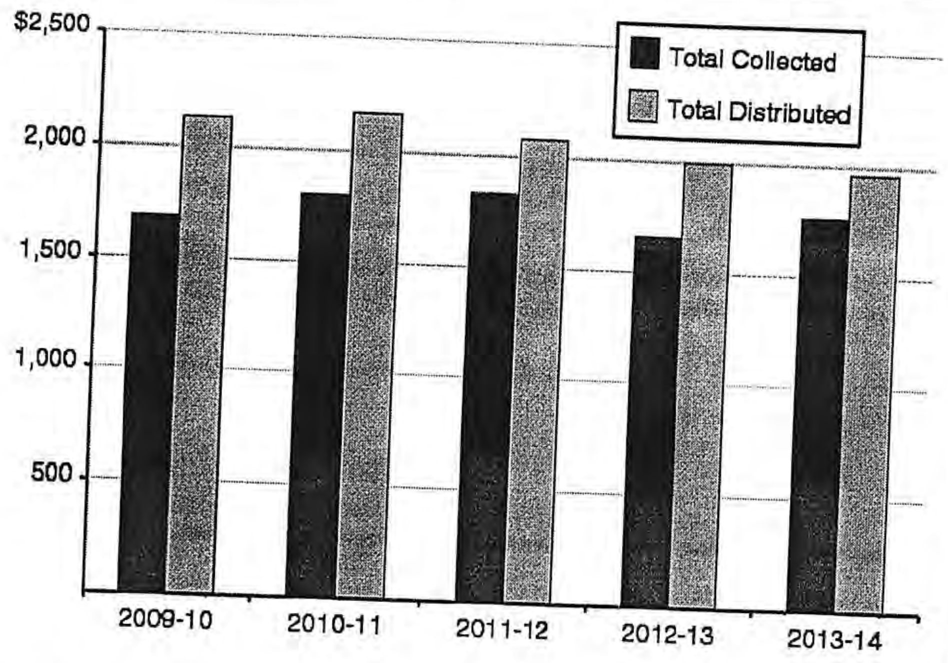
Lack of Complete and Accurate Data on Collections and Distributions

Although SCO and the judicial branch both collect information on the collection and distribution of fines and fees, each of the various records they maintain omit pieces of data. This is primarily because such data is often not required to be collected. For example, while counties transmit fine and fee revenue and information on how the revenue should be distributed among state funds to SCO, the SCO does not receive—and thus does not record—the amount kept by counties or cities. Additionally, the judicial branch is only required by state law to report on the amount of delinquent payments collected by collection programs and thus does not always record and report information on non–delinquent payments. Although the judicial branch informally tracks some distribution data, it is not required to do so under state law. In view of the above, the state currently lacks complete data on both the collection and distribution of fine and fee revenue.

Compounding the problem regarding the la... collections and distributions data, it appears that there a... ...onsistencies (1) between similar pieces of data collected by the SCO and the judicial branch and (2) in how collection programs report data. For example, as shown in Figure 9, SCO and judicial branch reports on collections and distributions are inconsistent, as they report a greater amount being distributed than collected. From our attempts to reconcile the data, it appears that programs may differ in what charges and distributions they classify as criminal fines and fees as well as how they report such information—impacting both the collections and distributions data. In addition, it appears that part of the difference is also attributable to data that is missing from collections reports. Without complete, consistent, and accurate data, it is difficult for the Legislature to conduct fiscal oversight to ensure that funds are being allocated accurately and used in accordance with its priorities and state law. It also makes it difficult for the Legislature to determine the impacts of enacted or proposed changes to fines and fees, which further limits the ability of the Legislature to effectively oversee the current system and programs supported by it.

Figure 9

Inconsistency Between Fine and Fee Collection and Distribution Data



LAO Recommendations

In this report, we reviewed California's existing fine and fee system and identified several problems. To address these problems, we provide several recommendations to overhaul and improve the fine and fee system. First, we recommend reevaluating the overall structure of the fine and fee system to ensure the system meets legislative goals. Second, we recommend increasing legislative control over the use of criminal fine and fee revenue to ensure that its uses are in line with legislative priorities. Figure 10 provides a summary of our recommendations, which are discussed in greater detail below.

Figure 10

Summary of LAO Recommendations

✓ Revaluate structure of criminal fine and fee system.

✓ Increase legislative control of criminal fine and fee expenditures.

- Deposit most criminal fine and fee revenue in the General Fund.
- Consolidate most fines and fees.
- Evaluate existing programs supported by criminal fine and fee revenues.
- Mitigate impacts on local government.

Reevaluate Structure of Criminal Fine and Fee System

As discussed earlier, the state's current fin... ee system has evolved from statutes passed over the cou... f numerous years. In order to ensure that the system effectively meets current legislative goals and priorities, we recommend that the Legislature reevaluate the overall structure of the system. As part of this evaluation, we recommend the Legislature consider the following key questions in its deliberations to guide any subsequent changes to the state's fine and fee system.

What Should Be the Goals of the Criminal Fine and Fee System? A fine and fee system can serve various purposes:

- ***Deterrence.*** Fines and fees are used to deter criminal activity in several ways. First, they can be set to ensure that the fines and fees for committing an illegal act are greater than the benefit that individuals can obtain from the act—making it less likely that individuals commit the illegal activity. Deterrence can also be achieved by setting fines and fees high enough to result in a hardship that individuals will seek to avoid. Lastly, the effective enforcement of law and collection of fines and fees could deter criminal activity. This is because the more likely it is that offenders are caught and required to pay, the less likely it is that they would violate the law in the future.
- ***Proportional Punishment.*** Fines and fees can be used to provide a punishment that is proportional to the seriousness of a crime committed by an offender. This also conveys the seriousness of the offense. To achieve proportional punishment, fines and fees must be large enough to represent a reasonable hardship for offenders to ensure that they constitute a punishment. While the determination of whether the fines and fees for a particular offense are proportional and reasonable is subjective, it can be guided by information on how the requirement to pay affects offenders.
- ***Mitigating Effects of Crime.*** Another goal could be to generate sufficient revenue to help mitigate the negative effects of crime. For example, the state's current system often requires offenders to compensate their victims for certain losses through restitution orders. The state's system could be modified to offset other costs as well. For example, revenue could be used to offset costs imposed on the state and local governments by criminal activity, such as by providing funds for the enforcement of specific laws. To achieve this goal, it is necessary to collect information on the costs created by a criminal act and ensure that some portion of each offender's payment is used to offset those costs.

In general, the above goals are not mutually exclusive—meaning a fine and fee system can seek to achieve more than one of the goals. For example, fines and fees could be set sufficiently high to deter criminal activity with the resulting revenue used to offset the negative effects of criminal activity. However, in certain circumstances, some of the goals cannot be fully accomplished together. For example, requiring a payment that is high enough to generate sufficient revenue to fully offset all negative effects of a crime may result in a punishment that the Legislature views as disproportionate. Accordingly, the Legislature may need to determine which of its goals it values most when assessing the state's fine and fee system.

Should Ability to Pay Be Incorporated? The Legislature may also want to consider whether an individual's ability to pay should be incorporated into its fine and fee system. California has historically incorporated ability to pay by authorizing judges to waive or reduce certain fines and fees under certain circumstances. To the extent the Legislature is interested in incorporating ability to pay, there are various ways it can do so. We would note, however, that some of these options would entail one–time or ongoing administrative costs.

- ***Calculate Fines Based on Ability to Pay.*** One option is to calculate fines and fees in ways that reflect an individual's ability to pay. For example, the Legislature could consider a day fine system in which the total amount owed is calculated based on an offender's daily income. Under such a system, a low–income earning offender and a high–income earning offender would pay the same percentage of their income as punishment for their offense. However, the total amount each pays would differ substantially. Alternatively, the total amount owed for each offense can have a statutory maximum and be adjusted downward based on an offender's income, either automatically or through judicial discretion. This is similar to the state's current system in which judges are given discretion to waive certain fines and fees.
- ***Implement Alternative Methods for Addressing Debt.*** Another option is offering alternative methods for individuals to address their debt. For example, the Legislature could require collection programs to adjust their installment payment plans to make payment easier for low–income individuals. Currently, programs vary in how they determine appropriate installment payment amounts. The Legislature could set guidelines for how programs should calculate installment payments, such as by specifying how to calculate discretionary income (such as which household expenses could be deducted) in establishing installment payments or by setting limits on how much of an individual's income may be taken to address fine and fee obligations in a given month. The Legislature could also expand the use of alternative methods to satisfy fines and fees, such as by allowing offenders to completely address their debt through community service (which is currently not allowed).

What Should Be the Consequences for Failing to Pay? The Legislature will want to consider what consequences individuals should face when they fail to pay their fines and fees. Statute currently authorizes the use of certain consequences, including civil sanctions for failures to pay. The Legislature will want to consider whether to authorize additional sanctions and/or continue or modify existing sanctions (such as wage garnishments, tax liens, or holds on drivers' licenses). For example, under current law, collection programs can only direct the Department of Motor Vehicles to suspend the driver's license of an offender who fails to pay *once*. Programs tend to leave these suspensions in place until an individual completes payment, as the program is unable to resuspend the license if the individual stops making payments on the debt in the future. This can significantly increase the amount of time that individuals' licenses are suspended. Alternatively, the Legislature could authorize programs to impose a suspension more than once, in order to allow programs to lift a suspension as soon as a new payment agreement is reached. (This is already permitted in cases where individuals have their licenses suspended for failing to appear in court.) The Legislature could also take action to help prevent offenders from becoming delinquent. For example, the Legislature could authorize programs to offer an incentive (such as a discount) if offenders pay their debt in full within a certain period of time.

Should Fines and Fees Be Adjusted? Once the Legislature sets the appropriate fine level for criminal offenses, the Legislature will want to decide whether and how such fines are adjusted in the future. Under current law, fines and fees are set in statute and are only changed through the enactment of new statute. Such changes have generally involved increasing existing charges or adding new ones. The Legislature could require that the state regularly adjust fine and fee levels in the future to ensure that they are set at an appropriate level to accomplish its goals for the system. For example, the

Legislature could choose to reevaluate leve[illegible] [illegible]ry five or ten years. Alternatively, the Legislature could [illegible] re the automatic adjustment of fines and fees, such as based on a statewide economic indicator. This could raise or lower fine levels to conform to movements in the state's economy—including lowering fines when the state enters a recession.

Increase Legislative Control of Criminal Fine and Fee Expenditures

Deposit Most Criminal Fine and Fee Revenue in the General Fund. We recommend that the Legislature require that nearly all fine and fee revenue (including such revenue currently distributed to local government) be deposited into the state General Fund for subsequent appropriation by the Legislature in the annual state budget. (We would note that this action would not impact the Proposition 98 guarantee because fines and fees are not tax revenues.) Depositing all fine and fee revenue in the General Fund would allow the Legislature to ensure that annual funding for state and local programs is based on workload and its priorities, rather than on the amount of revenue generated by the fine and fee system. Moreover, an annual review of programmatic funding levels would facilitate periodic reviews of programs to help ensure that they are operating effectively and efficiently. In addition, any fluctuations in the collection of fine and fee revenue would no longer disproportionately impact programs supported by fines and fees. Instead, fluctuations in revenue would be addressed at a statewide level across other state programs—ensuring that adjustments in funding levels were based on statewide legislative priorities.

Based on our assessment of existing criminal fines and fees, we recommend excluding two types of fines and fees from being deposited to the General Fund—fish and game assessments and victim restitution orders. This is primarily due to certain legal restrictions regarding these particular fines and fees. For example, the State Constitution requires that money collected under any state law related to the protection or propagation of fish and game be used for related activities. Victim restitution orders for damages should also continue to be paid directly to victims as these are charges set by the court to compensate individual victims for losses they incurred.

In addition, we note that the Legislature would need to account for certain legal requirements and ongoing commitments previously made from fine and fee revenue. First, Proposition 69 (2004) established a DNA assessment of $1 for every $10 portion of the base fine for criminal offenses. The Legislature would want to ensure that the programs supported by this assessment continue to receive at least the same level of funding they would have under the current system, in order to meet the requirements of Proposition 69. Second, the state and local governments have committed some of their fine and fee revenue to support long–term, contractual expenditures. For example, the State Trial Court Construction Fund and the local Criminal Justice Facilities Construction Funds commit monies for decades to make debt service payments to repay bonds sold to finance construction. The Legislature would need to ensure that revenue is available to meet such obligations in order to avoid litigation or punitive actions.

Depositing nearly all fine and fee revenue into the General Fund could also increase public confidence in the system. Currently, some members of the public distrust the existing system as they believe that various state and local entities, such as law enforcement and trial courts, directly benefit from each citation that is issued. Our recommendation could minimize this perception as the Legislature would be responsible for allocating all of the revenue based on its General Fund priorities.

Consolidate Most Fines and Fees. We also recommend the Legislature consolidate most fines and fees into a single, statewide charge and eliminate the ability of trial courts and local governments to charge additional fines and fees. (Based on our above recommendation, fish and game assessments, as well as victim restitution orders, would continue to be imposed separately.) Such consolidation would eliminate the need for the existing complex distribution model and make it easier for counties and courts to track such revenue—thereby improving the accuracy and completeness of collection data.

Simplifying the calculation of fines and fees could also generate greater public confidence in the system. Currently, individuals are often confused about how the total amount they must pay can increase so significantly from the initial base fine or why it can vary by county. This often results in individuals viewing the existing fine and fee system as unfair and overly punitive, which can sometimes result in a reluctance to pay. Simplifying the calculation of fines and fees can increase transparency by providing offenders with a clearer idea of their punishment.

Evaluate Existing Programs Supported by Criminal Fine and Fee Revenues. If the Legislature adopted our recommendation to deposit fine and fee revenue to the General Fund, it would need to determine the appropriate level of funding (if any) for the various programs currently supported by fine and fee revenue. In making these funding decisions, the Legislature might first want to consider whether an individual program should be a state responsibility, as well as how it compares to other statewide budgetary priorities.

To assist in its budget deliberations, the Legislature would need to acquire information on how fine and fee revenues are currently being used, such as by requiring state and local programs to submit reports on current expenditures or conducting hearings with various stakeholders. In addition, the Legislature would need to define its expectations on program service levels and determine the funding needed to meet those expectations. For example, the Legislature could direct programs to develop workload or staffing ratios to establish program funding needs. The Legislature could use this information to evaluate the need and cost–effectiveness of each program relative to all other programs currently supported by the General Fund. This would help ensure that programs that the Legislature prioritizes most receive an appropriate amount of funding, rather than whatever amount happens to be generated by fines and fees. However, we recognize that the above process would take time to complete, as most programs currently have limited data on program outcomes and expenditures. Accordingly, the Legislature could choose to gradually implement changes to the level of funding provided to various state and local programs as it receives such information.

Mitigate Impacts on Local Government. As discussed previously, local governments currently receive about 40 percent of criminal fine and fee revenue—about $820 million in 2013–14—for a variety of purposes. Under our recommended approach, such fine and fee revenue would instead be deposited in the state General Fund. As part of any restructuring of fine and fee revenues, we recommend that the Legislature mitigate the fiscal impact this would have on local governments. For example, one promising mechanism available to the Legislature for mitigating the impact on many counties is through reducing or eliminating the MOEs they are currently required to pay to the state related to trial court operations. As discussed previously, counties currently remit about $660 million annually to the state to meet these obligations. In 2013–14, counties received $657 million in fine and fee revenue—nearly the same amount owed to the state. We note that since the MOEs were first established in 1997–98, the state has taken actions to change MOE obligations for trial court operations—reducing the required payments from nearly $1.2 billion to about $660 million (a decrease of nearly 45 percent). This reduction included eliminating a portion of the MOE obligation entirely for 38 counties.

The Legislature could also consider taking other mitigating actions for counties and cities. For example, given that some fine and fee revenue distributed to local government has been used to meet ongoing obligations (such as facility debt service), the Legislature could gradually implement any changes in funding provided to local governments. This would give local governments time to fully address any ongoing obligations that are currently being paid for with fine and fee revenue. It would also provide local governments time to restructure or eliminate programs currently supported by fine and fee revenue.

Implementing Changes to the Fine and Fee System

As the Legislature considers making changes to the fine and fee system, it may also want to consider making comprehensive changes across the entire system—balancing changes to fine and fee levels, enforcement, collection, and distribution. Depending on the Legislature's goal for the state's fine and fee system, the Legislature may ultimately make changes—such as lowering fine and fee levels—that could result in a decline in revenue to state and local programs. To mitigate such revenue losses, the Legislature could make improvements to the collection process—such as those contained in our November 2014 report—in order to help increase the amount of fine and fee revenue ultimately collected. (Please see the nearby box for a summary of the findings and recommendations made in our November 2014 report on restructuring the court–ordered debt collection process.) This would increase the amount available for distribution, helping to mitigate any potential loss of fine and fee revenue. Additionally, after evaluating programs currently supported by fine and fee revenue, the Legislature could decide that certain programs currently receiving funding are not legislative priorities or make changes to programs so that they operate more cost–effectively. Redirecting the resulting funds freed up by such changes could also help mitigate the impact of a potential loss of fine and fee revenue on state and local programs.

Restructuring the Court–Ordered Debt Collection Process

Our November 2014 report, *Restructuring the Court–Ordered Debt Collection Process*, identified a number of weakness with the current court–ordered debt collection process. First, there is a lack of clear fiscal incentives for collection programs to collect debt in a cost–effective manner or to maximize the total amount of debt they collect. For example, there is almost no direct relationship between a program's collection effort and the revenue that accrues to it. Second, we found that it is difficult to comprehensively evaluate and compare the performance of existing collection programs due to a lack of complete, consistent, and accurate reporting on how programs collect debt. Finally, we found that the current statutory division of responsibilities between counties and courts can undermine the oversight and modification of collection programs—thereby making it difficult to make improvements.

In view of these weaknesses, we recommended a series of improvements to the collection process. First, we recommend that the Legislature shift statutory responsibility for debt collection to the trial courts and pilot a new collections incentive model. This restructured process would: (1) consolidate responsibility with the entity best suited for managing collections, (2) provide courts with greater flexibility in how and when they collect debt, and (3) reward courts for collecting cost–effectively or increasing the total amount collected. Second, we recommend improving data collection and measurements of performance to enable a comprehensive evaluation of court–ordered debt collections. In combination, we believe these recommendations would improve the efficiency of debt collection and increase the total amount of debt revenue collected and distributed to state and local funds. We note that these recommendations related to the collection process complement the recommended changes in this report regarding the overall criminal fine and fee system.

Appendix

Summary of Fine and Fee Revenue Deposits in State and Local Funds[a]

(In Millions)

	2009–10	2010–11	2011–12	2012–13	2013–14
State Administered Funds (Non Judicial Branch)					
State Penalty Fund[b]	$161.2	$153.4	$138.4	$130.5	$124.4
General Fund	80.7	87.8	75.0	69.1	73.0
DNA Identification Fund	27.6	40.7	53.9	62.8	67.9
Motor Vehicle Account	36.1	41.3	42.3	48.3	53.5
Restitution Fund	59.8	60.8	56.4	54.9	52.7
EMAT Act Fund	—	0.7	11.7	10.2	10.2
Fish and Game Preservation Fund	0.5	0.6	0.3	0.5	0.5
Other Funds	1.7	1.4	1.2	1.0	1.1
Totals	**$367.7**	**$386.6**	**$379.3**	**$377.4**	**$383.3**
State Administered Funds (Judicial Branch)					
Trial Court Trust Fund	$253.2	$269.3	$310.6	$302.2	$302.1
Immediate and Critical Needs Account	247.3	263.5	241.5	224.4	217.5
State Court Facilities Construction Fund	99.1	91.6	84.3	76.5	74.0
Trial Court Improvement and Modernization Fund	75.5	67.1	61.8	58.3	48.2
Court Facilities Trust Fund	2.1	1.9	1.7	5.7	2.3
Totals	**$677.2**	**$720.4**	**$700.1**	**$667.2**	**$644.1**
Local Government Administered Funds (County)					
General Fund	$466.9	$460.3	$431.7	$415.5	$415.9
Maddy EMS Fund	93.3	92.2	85.0	81.0	86.1
Criminal Justice Facilities Fund	84.4	79.2	71.7	65.3	52.1
Courthouse Construction Fund	51.4	47.3	43.1	40.5	39.0
DNA Identification Fund	25.3	29.4	28.9	28.0	27.5
Alcohol and Drug Related Special Funds (various)	12.2	12.6	12.6	12.2	11.3
Automated Fingerprint Identification Fund and Digital Image Photographic Suspect Identification Fund	9.7	9.2	9.3	8.3	8.1
Laboratory Special Funds (various)	7.7	7.7	7.5	7.2	6.8
Other Funds	13.4	9.6	10.2	10.0	10.0
Totals	**$764.4**	**$747.4**	**$700.0**	**$668.0**	**$656.8**
Local Government Administered Funds (City)					
General Fund	$214.3	$196.7	$178.1	$170.7	$165.4
Totals	**$214.3**	**$196.7**	**$178.1**	**$170.7**	**$165.4**
Collection Programs					
Operating Costs	$104.8	$114.9	$120.2	$114.5	$113.6
Totals	**$104.8**	**$114.9**	**$120.2**	**$114.5**	**$113.6**
Total Amount Distributed	**$2,128.4**	**$2,166.0**	**$2,077.6**	**$1,997.8**	**$1,963.2**

[a]Due to certain data limitations, these numbers reflect our best estimate of the amount of fine and fee revenue distributed to state and local funds. Actual amounts could be higher or lower.

[b]State Penalty Fund revenues are allocated to nine other state funds (such as the Peace Officers' Training Fund and the Restitution Fund) with each receiving a certain percentage specified in state law.

EMS = Emergency Medical Services and EMAT = Emergency Medical Air Transportation.

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FACT SHEET

January 2015

Senate Bill 1407–Impacts of Delay
Judicial Branch Court Construction Program

Senate Bill 1407 (Stats. 2008, ch. 311), authorized up to $5 billion in bonds to build or renovate courthouses in 32 counties. These projects are necessary to replace or improve courthouses with the most severe problems—safety and security, structural deterioration, and overcrowding—for the protection of the public, court staff, and judicial officers, and to improve access to justice in California. As noted in Chief Justice Tani Cantil-Sakauye's Access 3D vision, physical access to justice requires safe, secure, accessible courthouses, open where and when the public needs them.

SB 1407 projects are funded by court users from increased fees, penalties, and assessments that generate approximately $270 million in annual revenues. However, due to the state's budget problems that began in 2009, court construction funds were diverted for several years to other needs within the state. These diversions required 11 projects to be indefinitely delayed.

Court Construction Funds Diverted

Since 2009, $1.8 billion in court construction funds[1] have been used to address the state's budget shortfall, including:

- Loans to the General Fund totaling $440 million, for which repayment has been delayed.
- A 2011 redirection of construction funds to the General Fund—not the courts—of $310 million, more than an entire year's worth of SB 1407 program revenues.
- A 2012 redirection of $240 million to court operations, backfilling a General Fund reduction, plus an ongoing $50 million redirection to begin in fiscal year 2013–14.

[1] The total of $1.8 billion in court construction funds diverted includes loans and redirections from the State Court Facilities Construction Fund and the Critical N

- Over the same two years, the Judicial Council redirected a further $122 million of construction funds to judicial branch operations to soften the impact of General Fund reductions.
- Another $313 million intended for repairs and enhancements of court facilities was redirected to court operations to backfill for budget reductions to the courts, adding to a significant backlog of deferred maintenance in the judicial branch.
- In fiscal year 2013–2014, the Legislature redirected another $200 million of court construction funds to court operations to backfill a $200 million cut in General Fund, delayed repayment of a $90 million loan, and passed a new requirement that the New Long Beach Courthouse (an average of $60 million per year for the next 35 years) be paid for with court construction funds.

In response, the judicial branch had to delay the start of design or construction for many projects, cancel 2 courthouse projects, reduce budgets on all others, and indefinitely delay 11 projects.

All of these delays exacerbate the already significant problems associated with our aging and increasingly unsafe facilities. The delays are costly to the state in other ways as well. These delays will:

- Continue to expose the public, judicial officers, and court staff to hazardous conditions posed by structurally unsafe and unsound buildings;
- Prolong risks to the personal safety of the public, judicial officers, and court staff created by security deficiencies in the buildings—one of the primary drivers of need for new facilities;
- Impair the state's ability to create an estimated 104,000 direct and indirect new jobs, critically needed to put Californians back to work; and
- Cost the state hundreds of millions of dollars in lost buying power.

Physical Risks

California's courthouses suffer from years of neglect. Courthouses slated for replacement using the funds generated by SB 1407 are unsafe for the public and staff in many ways. They often lack adequate fire alarm systems, emergency evacuation systems, or other basic life safety systems. Many courthouses are seismically deficient and could be condemned, or worse, collapse in a moderate earthquake—a recent example of the risks posed by seismically deficient courthouses is the August 2014 magnitude 6.0 earthquake centered on Napa, which resulted in damage and closure of the historic Napa Superior Courthouse.

Roofs and windows leak, often causing severe water damage and, in some cases, indoor air-quality hazards. Aging and outdated systems—elevators, power, heating and ventilation, plumbing—fail frequently, hindering already backlogged court operations and affecting the public's timely access to justice.

Delaying replacement of and repairs to these buildings extends hazards that have long been identified as unacceptable. For example, in Los Angeles County, the Mental Health Courthouse (a former pickle factory) has no physical capacity to properly hear specialized cases, such as when patients attend court and must remain on a gurney. Judicial officers and court staff must conduct those proceedings in the sallyport area, which is open to public view and the delivery location for in-custody court participants.

Security Risks

The courthouse projects authorized by SB 1407 are the most immediately and critically needed in the state. Delaying construction prolongs many risks to public safety.

The antiquated physical layout of many courthouses creates security risks. These buildings need to be replaced or remodeled to eliminate or reduce the danger. A March 2009 incident in a Stockton courtroom, in which a defendant was shot to death after he attacked the judge with a handmade weapon, illustrates courtroom security challenges and highlights the need for modern, secure courthouses. In many courthouses, in-custody defendants move through the same hallways used by the public. This leads to intimidation of victims and witnesses and to contamination of jurors. Many courthouses lack space for attorneys to confer confidentially with clients. In the El Dorado Courthouse, for example, the public defender must confer with clients in the open holding cell or in the ladies' room. Inadequate security is also a major concern in courthouses that deal with gang-related criminal proceedings. These problems illustrate why the Judicial Council prioritized security in the planning for new and renovated courthouses.

Jobs Impact

At a time when the state's economy needs new jobs, the SB 1407 court construction program presents an unparalleled opportunity for economic stimulus. The $5 billion of construction originally authorized by SB 1407 was estimated to create over 100,000 jobs through direct employment and the related boost to local economies.

Many SB 1407 projects are in areas experiencing protracted high unemployment, such as Riverside, Imperial, and Stanislaus Counties. The impacts of delay will be felt throughout the construction industry and related trades, including both skilled and unskilled labor.

Escalating Costs
The construction market is starting to improve, and the sooner courthouse projects are designed and bid, the lower the cost to the state. Repeated delays likely will cause cautious private sector participants to increase their bids to mitigate the perceived increased risk of uncertainty in doing business with the State of California. In addition, this program has benefited from historically low interest rates, resulting in lower long-term costs of construction, which is typically financed rather than cash funded. Financing construction now—while the financing costs are relatively low—makes the most of the historic low borrowing rates.

Judicial Branch Oversight
The Judicial Council, under the leadership of the Chief Justice, has taken action to ensure that the program is well-managed:

- July 2011: The Chief Justice created the Court Facilities Working Group to oversee the judicial branch facilities program. The 21-member panel, chaired by Administrative Presiding Justice Brad R. Hill of the Court of Appeal, Fifth Appellate District in Fresno, includes judicial officers, court executives, and experts in public building programs.
- December 2011: The Judicial Council accepted the working group's first recommendations, which included canceling two courthouse projects and reducing costs on all others.
- Early 2012: The working group engaged an independent expert firm, Pegasus-Global Holdings Inc., to audit the court construction program. All of the auditor's recommendations have been or are being implemented.
- April 2012: The Judicial Council adopted a cost-reduction plan for SB 1407 projects. This effort is ongoing, but already has identified more than $380 million in budget savings.
- October 2012: Because of funding sweeps and redirections, the Judicial Council indefinitely delayed seven courthouse projects.
- January 2013: The Judicial Council indefinitely delayed four projects, including the Sacramento Criminal Courthouse, as a result of the fiscal year 2013–2014 Budget Act, which requires payment of the annual service fee for the Governor George Deukmejian Courthouse in Long Beach from SB 1407 funds. The project was originally planned to be funded from the General Fund. It also broadened oversight of facility modifications and maintenance by another [illegible]

- February 2013: The Judicial Council delayed the start of design on 10 projects until fiscal year 2014-2015 due to a one-time $200 million cut from the General Fund.
- July 2014: The Judicial Council sponsored legislation (AB 1476) signed by the Governor to appropriate design funds for the new Sacramento Criminal Courthouse with SB 1407 funds

Courthouse Project Delays

Construction fund diversions are crippling progress on many essential courthouses:

Indefinitely delayed by Judicial Council, Oct 26, 2012	
[illegible]	[illegible]
Kern	New Delano Courthouse
	New Mojave Courthouse
Los Angeles	New Glendale Courthouse
	New Santa Clarita Courthouse
Monterey	New South Monterey County Courthouse
Placer	New Tahoe Area Courthouse
Plumas	New Quincy Courthouse

Delayed to fund new Long Beach Courthouse, July 1, 2013	
[illegible]	[illegible]
Fresno	Renovate Fresno County Courthouse
Los Angeles	New Southeast Los Angeles Courthouse
Nevada	New Nevada City Courthouse
Sacramento	New Sacramento Criminal Courthouse Site acquisition was approved to proceed and the site was acquired in July 2014. Consistent with Judicial Council action of July 2014, AB 1476 authorized funds for design, which is underway.

Contact:

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More information:

VIDEO: California Courthouse Construction: Immediate and Critical Needs: http://youtu.be/h1rPymFWCWU

Judicial Branch Facilities Program: www.courts.ca.gov/programs-facilities.htm

Court Facilities Advisory Committee: www.courts.ca.gov/15693.htm

EXHIBIT 3

JUDICIAL BRANCH GOVERNOR'S BUDGET SUMMARY

2016-2017 WHICH TOTAL FUNDING FOR THE TRIAL COURTS IN CALIFORNIA IS ONLY $2,804,993.00

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Judicial Branch

The Judicial Branch consists of the Supreme Court, courts of appeal, trial courts, and the Judicial Council. The trial courts are funded with a combination of funding from the General Fund, county maintenance-of-effort requirements, fines, fees, and other charges. Other levels of the Judicial Branch receive most of their funding from the General Fund. The Budget includes total funding of $3.8 billion ($1.8 billion General Fund and $2 billion other funds) in 2016-17 for the Judicial Branch, of which $2.8 billion is provided to support trial court operations. The Judicial Council is responsible for managing the resources of the Judicial Branch.

In 1998, California voters passed a constitutional amendment that provided for voluntary unification of the superior and municipal courts in each county into a single, countywide trial court system. By 2001, all 58 counties had voted to unify their municipal and superior court operations. This was the culmination of over a decade of preparation and work to improve court coordination and uniform access to justice. The Trial Court Funding Act of 1997 consolidated the costs of operating California's trial courts at the state level. The Act was based on the premise that state funding of court operations was necessary to provide more uniform standards and procedures, economies of scale, structural efficiency and access for the public. The Act created a state-funded trial court system and capped county contributions, having the state assume responsibility for growth in the costs of court operations. Prior to state funding, many small courts were in financial crisis and needed emergency state funding to keep their doors open.

The Budget contains the following proposals to support efforts by the Judicial Council to improve court operations and increase access.

Improving California's Court System

In planning for future court demands, the Chief Justice has created the Commission on the Future of California's Court System. The Commission expects to release initial recommendations in the summer of 2016 on initiatives to effectively and efficiently enhance access to justice. The Administration is committed to working with the Judiciary on improving access and modernizing court operations through innovative approaches.

To this end, the Administration is proposing to work with the Judicial Council to reallocate up to five vacant superior court judgeships and the staffing and security complements needed to support and implement the proposal. This will shift judgeships where the workload is highest without needing to increase the overall number of judges. The Administration also proposes to reduce the current allowable number of 10 peremptory challenges per side in misdemeanor trials to 6 challenges per side. Six challenges per side is the current average, and additional challenges unnecessarily add delays to proceedings.

The Administration is working collaboratively with the Judicial Council to develop and administer a competitive grant program to encourage courts to develop new ways of doing business. The projects funded by the grants must have measurable results or benefits that have a demonstrated impact on the court and the public it serves. The Budget includes $30 million General Fund on a one-time basis to fund these grants.

Many courts have demonstrated the capacity to adapt and innovate, resulting in programs and practices that save money and better serve the public. Successful examples of these improvements include: Fresno Superior Court's remote video proceedings for traffic violations, Imperial Superior Court's Binational Justice Project, Contra Costa Superior Court's efforts related to online probable cause determinations, and San Bernardino Superior Court's automated payment processing. Additional innovative programs could include a self-scheduling system for traffic courts, the use of kiosks for traffic court proceedings, and the development of electronic recordings in family courts.

2016-17 Budget

During the recession, General Fund support for the Judicial Branch was reduced like every area of state government; however, the state mitigated the impact of the reductions on the Judicial Branch through increased user fees, the redirection of various

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special funds, and the expenditure of trial court reserves. During the fiscal crisis, some trial courts were forced to reduce service hours, furlough and lay off employees, and close courtrooms, while other courts were able to fully maintain operations and even provide salary increases. The disparity in how trial courts handled the reductions highlighted the need for a comprehensive evaluation of the state's progress in achieving the goals outlined in the Trial Court Funding Act of 1997. A working group composed of Administration and Judicial Branch appointees made recommendations to better allocate existing resources. The Chief Justice and the Judicial Council, through a modification of the Workload Allocation Funding Model, have taken significant steps to promote equal access to justice by allocating funding more equitably to the trial courts.

As shown in Figure JUD-01, after making various budget adjustments, trial court funding is proposed to be 10.5 percent above 2007-08 in 2016-17.

Figure JUD-01
Judicial Branch Expenditures
(Dollars in Thousands)

Judicial Branch Expenditures by Program	2007-08 Actual	2015-16 Estimated	2016-17 Governor's Budget
Supreme Court	44,397	46,519	46,438
Courts of Appeal	200,706	219,274	224,784
Judicial Council	130,396	134,203	133,173
Habeas Corpus Resource Center	12,553	14,525	15,015
Facility Program	(49,965)	(369,788)	(409,904)
Staff and OE&E [1]	22,634	35,196	42,825
Trial Court Facility Expenses	27,331	334,592	367,079
Trial Courts	3,288,873	2,674,738	2,804,693
Total	**$3,726,890**	**$3,459,047**	**$3,634,007**
Adjustments to Trial Courts	$3,288,873	$2,674,738	$2,804,693
Trial Court Facility Expenses	$27,331	$334,592	$367,079
Sub-total, Trial Courts	**$3,316,204**	**$3,009,330**	**$3,171,772**
Trial Court Security Costs [2]	-444,901		
Adjusted Total, Trial Courts	**$2,871,303**	**$3,009,330**	**$3,171,772**

[1] Increase in Facility Program due to new construction and facility management projects.

[2] For comparison purposes, court security costs for 2007-08 are removed from trial court expenditure totals due to the realignment of court security costs beginning in 2011-12.

Significant Adjustments:

- Trial Court Employee Costs—The Budget includes $15.6 million General Fund for trial court employee benefit costs, of which $7.4 million reflects funding for trial courts that have made progress towards meeting the Public Employees' Pension Reform Act of 2013 standard for employees sharing the cost of pension funding. Recognizing that many of these costs are beyond the control of the trial courts, the Administration will continue to fund future increases related to existing health benefits and retirement costs for trial court employees and retirees.

- Trial Court Trust Fund Revenues—The Budget includes a total of $75 million General Fund to backfill a continued reduction of fines and penalty revenues expected in 2016-17. This reflects an increase of $8.8 million compared to the amount needed in 2015-16.

- Proposition 47—Following the passage of Proposition 47 in November 2014, the trial courts have experienced increased workload due to the requirement that courts reclassify and resentence certain drug and property crimes that involve less than $950 from felonies to misdemeanors. The Budget includes $21.4 million General Fund to reflect the projected resentencing hearings in 2016-17. By the end of 2016-17, the Administration expects that the courts' workload associated with Proposition 47 will be significantly reduced or eliminated.

- Court Innovations Grant Program—The Budget includes an increase of $30 million General Fund on a one-time basis for a grant program that promotes improvement, efficiencies, and access to justice in the courts.

- Language Access—Given California's diversity, the court system is faced with significant linguistic challenges. The Judicial Council's current annual budget allocation for interpreter services is $94.5 million. To improve language access for limited English proficient court users, the Budget includes an additional $7 million General Fund to provide court interpreter services in civil proceedings.

- Trial Court Funding—An augmentation of $20 million General Fund for discretionary trial court operations.

- Fund Shift for Financial System—The Budget includes $8.7 million General Fund to fund the Phoenix Financial System, operated by Judicial Council staff, that provides the state with consistent financial information of trial court expenditures. It was previously funded from the State Trial Court Improvement and Modernization Fund (IMF). The IMF is intended to pay for innovative approaches to technology to support

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the trial courts. This fund shift is part of a multi-pronged approach to help with the solvency of the IMF and preserve critical programs.

- State-Level Reserve—Currently, 2 percent of annual trial court allocations are held back until each spring, in case a court needs an emergency allocation. Any unused funds are allocated to all trial courts late in the year. The Budget proposes a new reserve policy for trial courts that avoids late allocations by providing $10 million General Fund one-time as a reserve in the Trial Court Trust Fund. If any funds from the reserve are used, they would be replenished annually out of base allocations to the trial courts.
- Deferred Maintenance—The Budget proposes $60 million one-time General Fund for deferred maintenance in the courts as prioritized by the Judicial Council. (For more information about deferred maintenance please see the Statewide Issues Chapter.)

EXHIBIT 4

PLAINTIFF'S "EX PARTE APPLICATION FOR MODIFICATION OF SENTENCE BASED UPON ABILITY TO PAY

PAGES 34-39

Superior Court of California, County of Sacramento
301 Bicentennial Circle, Room 100, Sacramento CA 95826
(916) 875-7800 Web Site: www.saccourt.ca.gov
Hours: 8:30am to 4:00pm

Ex Parte Application for Modification of Sentence Based on Ability to Pay

Clerk's File Stamp

Exparte Hearing Date:

Applicant / Defendant Name and Mailing address:

Howard Herships

P.O. Box 1501

Carmichael, Ca 95609-1501

Telephone No. (415) 933 -5190

Citation Number:

Case Number: 2013143193

(One application required for each case. Applications with multiple case numbers will not be processed)

People of the State of California
Vs.
Defendant:
Howard Herships

ges:

☒ Check here if additional pages attached

Total amount paid (if applicable):

Number of previous applications filed:

Total remaining due (if applicable):

1. Community service will be provided in lieu of paying your fine. There are a variety of assignments available for all education levels and physical limitations. Flexible schedules and hours are also available to complete community service and in most cases, at least 90 days is provided to complete the hours assigned. If you are unable to complete community service, you must indicate the reason below.

   ☐ I have previously been denied the opportunity to complete community service in Sacramento County due to my criminal history.

   ☒ I am physically unable to complete community service **(medical verification from a medical provider must be attached to application).**

2. Please check one of the following regarding your household income:

   A. ☒ I currently receive the following public assistance (check all that apply). **Verification of public assistance must be attached to application:**

   ☐ Supplemental Security Income/SSI (This is not Social Security)
   ☐ Cash Assistance Program for Immigrants (CAPI)
   ☐ CalWORKS
   ☐ State Supplementary Payment (SSP)
   ☐ County relief, general relief or general assistance
   ☐ In-Home Supportive Services (IHSS)
   ☒ MediCal
   ☐ Tribal Temporary Assistance for Needy Families

B. ☐ I do not currently receive public assistance. My gross monthly household income is $________ and a total of ______ dependents live in the household. (Questions 3-7 must be answered in order for your application to be considered and a copy of the most recent pay stub must be included). If you need more space, attach a sheet of paper and write Financial Information and your name and case number at the top. **Verification of income must be attached to application**

3. ☐ Check here if your income changes a lot from month to month. If it does, complete the form based on your average income for the past 12 months.

4. Your gross Monthly Income

a. List the source and amount of *any* income you get each month, including: wages or other income from work before deductions, spousal/child support, retirement social security, disability, unemployment, military basic allowance for quarters (BAQ), veterans payments, dividends, interest, trust income, annuities, net business or rental income, reimbursement for job-related expenses, gambling or lottery winnings, etc.

(1) VAVA SERVICE RELATED DISABILTY $ 960.00
(2) $
(3) $
(4) $

b. Your total monthly income $ 960.00

5. Household Income

a. List the income of all other persons living in your home who depend in whole or in part on you for support, or on whom you depend in whole or in part for support.

	Name	Age	Relationship	Gross Monthly Income
(1)				$ NONE
(2)				$
(3)				$
(4)				$ NONE

b. Total monthly income of persons above $ NONE

c. Total monthly income *and* household income (4b plus 5b) $ 960.00

6. Your Money and Property

a. Cash $ 50.00

b. All financial accounts (List bank name and amount)

(1) BANK OF AMERICA $ 40.00
(2) $
(3) $
$
$

c. Cars, boats, and other vehicles

	Make/Year	Fair Market Value	How Much You Still Owe
(1)	TOYOTA 1991	$ 450.00 (SALVAGE TITLE)	$
(2)		$	$
(3)		$	$

d. Real estate

	Address	Fair Market Value	How Much You Still Owe
(1)	NONE	$	$
(2)			

e. Other personal property (jewelry, furniture, furs, stocks, bonds, etc.):

	Describe	Fair Market Value	How Much You Still Owe
(1)	NONE	$	$
(2)		$	$
(3)		$	$

7. Your Monthly Deductions and Expenses

a. List any payroll deductions and the monthly amount below:

(1) ______ $______
(2) ______ $______
(3) ______ $______
(4) ______ $______

b.	Rent or house payment & maintenance	$ 560.00
c.	Food and household supplies	$ 250.00
d.	Utilities and telephone	$ 60.00
e.	Clothing	$
f.	Laundry and cleaning	$ 30.00
g.	Medical and dental expenses	$
h.	Insurance (life, health, accident, etc.)	$
i.	School, child care	$
j.	Child, spousal support (another marriage)	$
k.	Transportation, gas, auto repair and insurance	$ 25.00
l.	Installment payments (list each below):	

Paid to:

(1) ______ $______
(2) ______ $______
(3) ______ $______

m. Wages, earnings withheld by court order $______

n. Any other monthly expenses (list each below):

Paid to: How Much?

(1) ______ $______
(2) ______ $______
(3) ______ $______

Total Monthly Expenses (add 7a-7n above): $ 925.00

o. Any other facts you want the court to know related to your ability to pay, indicate below:

I HAVE MEDICAL APPOINTMENTS EVERY 90 DAYS TO MONITOR MY BLOOD AND EYES DUE TO THE MEDICATION I AM TAKING FOR MY MEDICAL CONDITIONS AT THE VA IN SAN FRANCISCO AS HAVE BEEN TREATED BY THE SAME PRIMARY CARE DOCTOR FOR 20 YEARS

erstand that by submitting this application, community service will be provided as the primary alternative to paying nes/fee. By completing the community service, I will satisfy the fines/fee. If I fail to complete the community service, have to pay my fine/fees in full by the due date or additional penalties will be added and a license suspension will be d to DMV. I declare under penalty of perjury under the laws of the State of California that the information ıed in this application and all attachments is true and correct.

ure [signature] Date 2/7/17

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DECLARATION IN SUPPORT OF ABILITY TO PAY

I declare as follows:

1. I am the defendant in the above entitled case and representing myself In Pro Per in this case.

2. That if called to testify I can do so based upon first hand personal knowledge.

3. That I am very limited income and do not have the ability to pay the $1,610.00 traffic Court judgment imposed against me.

4. That I also do not have ability to pay the $55.00 dollar reinstatement fees that the DMV charges.

5. That I requested an ability to pay hearing in the trial court and was told that the Constitution of the United States does not apply in traffic court.

6. That all of the penalty assessments and fines and fees could not have been imposed as I never had the ability to pay as at all times I was receiving public benefits Med-Cal.

7. That DMV suspension of my Drivers License was illegal in that the Superior Court never permitted or held a hearing on the ability to pay which was required under clearly established United States Supreme Court law.

8. Nor did the Superior Court ever made any determination that the failure to pay was willful as I was receiving public benefits within the meaning of Cal Gov. Code § 68323.

9. That I need my California Drivers license reinstated so that I can receive medical attention and kept my medical appointments and procedures as necessary in maintaining my medical health.

10. That attachments of roof of my receiving public benefits Med-Cal are true and copies of the original as attached hereto.

I declare under penalty of perjury under the laws of the State of California that all of the foregoing is true and correct.

Dated Feb. 7, 2017

Sacramento, Ca

Howard Herships

Form **1095-B**

Department of the Treasury
Internal Revenue Service

Health Coverage

Do not attach to your tax return. Keep for your records.
Information about Form 1095-B and its separate instructions is at www.irs.gov/form1095b.

☐ VOID
☐ CORRECTED

OMB No. 154
201

Part I Covered Individual

1 Name of responsible individual: Howard Herships	2 Social security number (SSN): ###-##-1490	3 Date of birth (if SSN is not available)
4 Street address: PO Box 1501	5 City or town: Carmichael	6 State or province: CA
7 Country and ZIP or foreign postal code: 95609-1501		
8 Enter letter identifying Origin of the Policy (see instructions for codes): C		

Part II Health Coverage Issuer

9 Name: Department of Health Care Services	10 Employer identification number (EIN): 68-0317191	11 Contact Telephone number: 1-844-253-0883 or TTY 1-844-357-57
12 Street address (including room or suite no.): 1501 Capitol Avenue, MS 4607, P.O. Box 997417	13 City or town: Sacramento	14 State or province: CA
15 Country and ZIP or foreign postal code: 95899-7417		

Part III Covered Individual

	(a) Name of covered individual	(b) SSN	(c) DOB (if SSN is not available)	(d) Covered all 12 months	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov
16	Howard Herships	###-##-1490		X	☐	☐	☐	☐	☐	☐	☐	☐	☐	☐	☐

(e) Months of coverage

17 Case Number: SS-	18 Client Index Number (CIN): 91813420C	19 Coverage provided on this Form 1095-B is current as of the date below: 12/08/2016

Instructions

Part I: This section will contain the personal information from the Medi-Cal record for the person receiving health coverage for the tax year sh
in the upper right corner of this form. This information should be correct. If not, please contact your county human service agency to update y
record and request a new corrected Form 1095-B.

Part II: This section contains the information for DHCS, who is reporting your health coverage to the IRS. You may use the contact phone numb
reach a live agent at our helpdesk that will provide answers to questions you may have about this form or our reporting process.

Part III: This section will show the person's months of coverage. If the person has all twelve months of coverage, box (d) will be marked. If not,
(e) will show the separate months this person had health coverage that met the requirement for the given tax year.

For Priva ct and Paperwork Reduction Act Notice, see separate instructions f

State of California

Benefits Identification Card

ID No. 91813420C65355
HOWARD HERSHIPS
M 11 11 1943 Issue Date 12 21 15

EXHIBIT 5

CALIFORNIA JUDGES BENCHGUIDE 83

SECTION 83.16 ASSERTING THAT IMPOSING FINES AND FEES WITHOUT PROVIDING AN ABILITY TO PAY HEARING IS NOT CONSTITIONALLY INFIRM AS THE PENAL CODE REQUIRES IMPOSING THE MAXIMUM FINES

PAGES 40-41

CALIFORNIA JUDGES BENCHGUIDES

Benchguide 83

RESTITUTION

[REVISED 2014]

ADMINISTRATIVE OFFICE
OF THE COURTS

JUDICIAL AND COURT OPERATIONS
SERVICES DIVISION

CENTER FOR JUDICIARY EDUCATION AND RESEARCH

- Inability to pay (for discussion, see §83.16);
- Seriousness of the offense;
- Circumstances of the offense;
- Defendant's economic gain, if any, from the crime;
- Pecuniary and intangible losses of victims or dependents of victims;
- Number of victims.

Criminal record. Defendant's criminal record is a relevant factor. *People v Griffin* (1987) 193 CA3d 739, 741–742, 238 CR 371; Cal Rules of Ct 4.411.5, 4.414.

Optional formula. In multicount felony cases the court may set the fine by using the formula stated in Pen C §1202.4(b)(2). See §83.17.

Juveniles. Factors to consider in juvenile cases are virtually the same as in cases involving adult offenders. See chart in §83.10.

c. [§83.16] Ability To Pay

Defendant is presumed to be able to pay the restitution fine and has the burden of demonstrating inability. Pen C §1202.4(d); *People v Romero* (1996) 43 CA4th 440, 448–449, 51 CR2d 26.

The court may consider future earning capacity. Pen C §1202.4(d); *People v Gentry* (1994) 28 CA4th 1374, 1376–1377, 34 CR2d 37 (court may consider defendant's future prison wages as well as possibility of employment when defendant is released from prison).

The court must impose the minimum fine even when defendant is unable to pay it. Pen C §1202.4(c); Welf & I C §730.6(b); *People v Draut* (1999) 73 CA4th 577, 582, 86 CR2d 469. The court may consider inability to pay only when increasing the amount of the restitution fine in excess of the $300 or $150 minimum. Pen C §1202.4(c). Such a mandate is not constitutionally infirm; however, imprisonment of an indigent defendant for nonpayment violates equal protection. *People v Long* (1985) 164 CA3d 820, 826–827, 210 CR 745.

d. [§83.17] Multiple Counts

Discretionary formula. For defendants convicted of several felony counts the court may calculate the fine by the following formula (Pen C §1202.4(b)(2)):

> $300 x number of years of sentence x number of counts of which defendant was convicted.

EXHIBIT 6

TRAFFIC TRIAL COURT REPORTER'S TRANSCRIPT OF PLAINTIFF'S TRAFFIC COURT TRIAL WERE THE JUDICIAL OFFICERS ARE NOT ALLOWED TO RULE ON FEDERAL CONSTITUTIONAL ISSUES

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pending, in process of going forward with it to declare the amendment to SB-1303 is unconstitutional.

And what really happened was the court, on May 9th of 2012, granted review in People vs. Goldsmith. After People vs. Goldsmith was granted review, Redfleck [sic] goes to the senator -- State Senator out of San Jose, gets them to sponsor a bill to address everything, and just rule and present a bill to changes 1552 and 1553 while it's pending in the State Supreme Court. (Sic.)

COMMISSIONER HELFER: Okay. Well, just -- you know --

THE DEFENDANT: I -- it -- I --

COMMISSIONER HELFER: -- I'm not -- I'm not --

THE DEFENDANT: -- believe 15 --

COMMISSIONER HELFER: -- I'm not the -- I'm not in a position to rule the constitutionality of something. I just want to know, as we sit here today, Evidence -- unless you tell -- unless you can show me something else, Evidence Code 1552(b) and 1553 are valid statutes as we sit here today.

Did you want to make any observations or comments on those as it relates to your case?

THE DEFENDANT: I believe that they're -- you're -- you're -- you know, to me, it's unconstitutional. The burden of proof -- according to their rationale, the burden of proof shifts to me to prove that the system is operating incorrectly, and I don't see how you can shift the burden of proof on a criminal case, because that's what

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EXHIBIT 7

DEFENDANT SUPERIOR COURT'S MINUTE ORDER DENYING AN ABILITY TO PAY HEARING BY PLAINTIFF AND IMPOSING AN ADDITIONAL PENALTY OF $650.00 FOR FAILURE TO PAY THE $960.00 PENALTY ASSESSMENT, FINES AND FEES

PAGE 43

1 of 2

Superior Court of California, County of Sacramento
MOTION / POST SENTENCING HEARING - MINUTE ORDER
JUDGE/COMMISSIONER: ~~BRODY~~

CAL. DATE: 07/08/2015 TIME: 13:30 JENNIFER K. ROCKWELL DEPT: 84

FTPF1

HERSHIPS, HOWARD RALPH
XREF NUMBER: 4894261
INTERP TYPE: N

CASE NUMBER: 2013143193
CITENUMBER: RA002962
AGENCY: RLC RC
VIOLATION DATE: 09/10/2013

ORIG BAIL WITH CORRECTION (If applicable):
ORIG BAIL WITHOUT CORRECTION: 480.00
TRUST AMOUNT: 0.00

ADJ	1	21453(A)	VC	FAIL TO STOP AT LIMIT LINE OR CROSSWALK ON RED SIGNAL
ADJ	2	1214.1(A)	PC	CIVIL ASSESS - FAILURE TO PAY

D present

2 cases
1310/1610

FTP CASES ONLY

(X) No Dism/Reduction of FTP - Full Amount $ 830- to GC Services.

( ) Count ______ Dismissed / Suspended / Reduced to $ ______.

( ) PIF Today amount of $ ______, Ordered to the Fines Room.

( ) PIF amount of $ ______, in Room 100 at Carol Miller Justice Center or GC Services. (Circle option above)

( ) Count 2 can be reduced upon full payment of $ ~~680~~- by the due date of ~~7-24-15~~. If not PIF, refer $ ~~830~~- to GC Services.

( ) Continuance for ______ to ______.

(X) Defendant advised license hold remains until paid in full.

Digital Recording Start: 2:07 End: ~~aod~~ 2:28

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DO NOT WRITE IN THIS SECTION

EXHIBIT 8

STIPULATION THAT PLAINTIFF WILL FILE THE DEFENDANT SUPERIOR COURT'S EX PARTE APPICATION FOR MODFICATION OF SENTENCE BASED UPON THE ABILITY TO PAY

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Gmail

Howard Herships <hherships@gmail.com>

RE: Howard Herships v. Tani Cantil-Sakauye, et al. (4:17-cv-00473-YGR)

8 messages

Fox, Michael <Michael.Fox@sedgwicklaw.com> Mon, Feb 6, 2017 at 2:20 PM
To: "hherships@gmail.com" <hherships@gmail.com>
Cc: "Patterson, Sean" <Sean.Patterson@sedgwicklaw.com>, Courtney Lui <Courtney.Lui@doj.ca.gov>, Jorge Aguilar <Jorge.Aguilar@doj.ca.gov>

Dear Mr. Herships –

Following our conference call earlier today, below is a draft e-mail which we propose to send to Judge Gonzalez Rogers. Please let us know by 4:00 p.m. today if you have any suggested revisions. If we do not hear back from you, we will send the e-mail to the Court.

Regards,

Michael Fox

***

Dear Judge Gonzalez Rogers:

Following today's conference call with the Court, the parties reached the following agreement to postpone Defendants' response date to Plaintiff's Complaint while Plaintiff pursues relief from Defendant Superior Court of California, County of Sacramento ("Superior Court"):

1. On or before Friday, February 10, 2017, Plaintiff Howard Herships will file with the Superior Court (a) a request for ability to pay determination using the Superior Court's form (Ex Parte Application for Modification of Sentence Based on Ability to Pay), and/or (b) a request for participation in the one-time amnesty program for unpaid traffic tickets using the Superior Court's form (Amnesty Participation Form and Affidavit).

2. While the Superior Court considers Plaintiff's request(s), Plaintiff stipulates to provide Defendants a 30-day extension to respond to the Complaint to March 23, 2017.

Defendants' counsel and Plaintiff are copied on this e-mail. Please let us know if the Court requires any further documentation of the stipulation.

Thank you for facilitating today's conference call.

EXHIBIT 9

DEFENDANT'S SUPERIOR COURT JUDICAL OFFICER DENIAL OF PLAINTIFF'S ABILITY TO PAY HEARING EVEN THROUGH PLAINTIFF IS ON PUBLIC BENEFITS AND AS NO ABILITY TO PAY THE $1,540.00 PENALTY ASSESSMENTS, FINES AND FEES

PAGE 45-47

Superior Court of California, County of Sacramento
301 Bicentennial Circle, Room 100, Sacramento CA 95826
(916) 875-7800 Web site www.saccourt.ca.gov
Hours: Monday - Friday 8:30a.m. - 4:00p.m.

FILED/ENDORSED
FEB - 8 2017
BY: [signature], DEPUTY CLERK

Defendant Name: HOWARD RALPH HERSHIPS
Street Address: PO BOX 1501
City, State Zip: CARMICHAEL, CA 95609

Citation Number: RA002962
Case Number: 2013143193
Violation Date: 09/10/13

Charges: VC 21453(A) PC 1214.1(A) Noı None None

Total amount paid (if applicable): 0.00

Total remaining due (if applicable): 830.00 Balance in Trust (if applicable): $0.00

ORDER OF THE COURT: IT IS HEREBY ORDERED THE REQUEST FOR MODIFICATION OF SENTENCE IS:

☐ Granted:

- ☐ Fine is converted to community service. Must complete________hours by____________________
- ☐ Fine balance remains the same but the monthly payment amount (for this case only) will be reduced to an amount not to exceed $10.00/month. In no event will the payment be increased as a result of this order. (i.e. if existing payment is already less than $10.00 per month).
- ☐ Fine balance at Department of Revenue Recovery reduced to __________________.

☐ Denied for the following reasons:

- ☐ Medical Documentation to substantiate inability to complete community service insufficient..
- ☐ Verification of income and/or public assistance insufficient.
- ☐ Lack of jurisdiction.
- ☐ Severity of charges.
- ☐ Already provided relief under Traffic Amnesty Program.
- ☒ Other see attached order

Date: 2/8/17 Signature: [signature]

- ☐ You must report to the Sheriff's Alternative Sentencing Program as indicated on the attached sheet within 15 days. Failure to report within 15 days or to complete the hours assigned by the due date will result in your case being referred to enhanced collections.
- ☐ Department of Revenue Recovery will be notified that your monthly payment amount for this case has been reduced as indicated above.
- ☐ Department of Revenue Recovery will be notified that your outstanding balance for this case has been reduced as indicated above.

The Court has received and filed your application for Modification of Sentence based on Ability to Pay. The Court is, however, unable to process and evaluate the application because it is not complete. Specifically, you do not provide medical verification from a medical provider regarding your physical limitations and inability to do community service. This proof, for example, could be in the form of copies of key documents from your medical records or an opinion from a treating or evaluating physician or nurse. The Court in evaluating a fine reduction, fine elimination or reduced payments will consider whether any portion of the fine obligation can or should be satisfied by completing community service. The Court has available a variety of benign/chair easy community service options available through roughly 100 different reputable non-profit charitable organizations in Sacramento. When the application is complete with the information regarding your inability to do community service, the Court will quickly rule on the entirety of your request. In the absences of receiving additional information from you on this issue, the Court will rule in 30 days based on the information you have provided and will consider benign/chair easy community service as a possible option.

Case #

2013143193

Defendant

Howard Ralph Herships

CA License/ID

S0863297

Case Status

A/R Fine

34470

Information About this Case

This case is in collections with GC Services. There is no option for you to return to court and discuss this case.

Total Fine Amount due: $830.00

Sentencing Information

- 02/08/2017
  - Honorable CONNELLY presiding.
  - Motion is denied.
  - Hearing concluded.
- 07/08/2015
  - Honorable ROCKWELL presiding.
  - The defendant is present.
  - Referred to GC Services.

EXHIBIT 10

DEFENDANTS' OFFER TO PLAINTIFF TO REINSTATE PLAINTIFF'S DRIVERS LICENSE REQUIREMENTS TO PAY AN ENROLLMENT FEE TO COLLECTION AGENCY GC SERVICES PLUS PAY $10% OF THE OUTSTANDING BALANCE OF $161.00 AND THEN AN ADDITIONAL $55.00 TO DEFENDANT DMV AND THEN MAKE AN UNDISCLOSED MONTHLY PAYMENTS WHEN PLAINTIFF'S TOLL INCOME IS $960.00 AND LIVING EXPENSES IS $945.00 AND ABILITY TO PAY THE $266.00 DEFENDANTS ASSERT THAT THIS IS THE ONLY WAY TO REINSTATE PLAINTIFF DRIVERS LICENSE AS DEFENDANTS WILL NOT GRANT AN ABILITY TO PAY HEARING

PAGE 48-50

ATTORNEYS AT LAW

333 BUSH STREET, 30TH FLOOR SAN FRANCISCO, CALIFORNIA 94104-2834

www.sedgwicklaw.com 415.781.7900 *phone* 415.781.2635 *fax*

Sedgwick LLP

Michael L. Fox
415.627.1450
michael.fox@sedgwicklaw.com

February 8, 2017

Mr. Howard R. Herships
P.O. Box 1501
Carmichael CA 95609

Re: *Howard Herships v. Tani Cantil-Sakauye, et al.*
Case No. 4:17-cv-00473 (YGR)
Our File No. 03470-147481

Dear Mr. Herships:

We write again to encourage you to apply to the Superior Court's amnesty program. While we cannot yet comment on whether you will qualify for a reduction in your outstanding fines pursuant to Rule 4.335, the potential relief available through the amnesty program will also assist in expediting the reinstatement of your license.

As you point out, California sets out certain specific qualifying parameters for individuals entitled to amnesty, pursuant to Vehicle Code section 42008.8(g). One of these qualifiers requires that the originating fines/citations were incurred on or before January 1, 2013. As your originating fines/citations occurred thereafter, you are correct that you are not entitled to the reduction or elimination of those fines through Section 42008.8. However, the guidelines do allow the Superior Court to exercise its discretion and extend amnesty to otherwise unqualified persons, such as yourself, to expedite the procedural hurdles in reinstating your license. Indeed, you were notified that the Superior Court had made such a determination in the DMV's July 28, 2016 correspondence, which informed you of the steps that you needed to take to avail yourself of this program.

As you acknowledge, you are not contesting that you cannot or will not pay the original fines incurred as a result of your citation. While we cannot comment yet on whether you are entitled to a reduction or elimination of the subsequent fees and assessments incurred as a result of your failure to pay those fines, pursuant to Rule 4.335, you will need to pay the original fines to secure reinstatement of your license. If you enroll in the amnesty program – which the Superior Court is willing to allow you to do – then you can expedite the payment and reinstatement.

The traffic amnesty application form can be downloaded online at: https://www.saccourt.ca.gov/traffic/amnesty-program.aspx. Once a payment plan has been established with GC Services, you will be in compliance and then you may submit your application and enrollment fee ($50.00) for the amnesty program to GC Services for processing. Once your application is processed and it is determined that you qualify for relief under the amnesty program, the FTP hold will be lifted from your account so that you can proceed with reinstatement through the DMV. You will also need to pay the reinstatement fee charged by the DMV ($55.00). You must also submit your application for the amnesty program to GC Services no later than March 31, 2017, although we recommend that you do so immediately.

To reiterate, the Superior Court will approve your enrollment in the amnesty program. Doing so will expedite the reinstatement of your driver's license while the Superior Court makes a determination on whether you are qualified to reduce the subsequent fees and fines incurred as a result of your failure to pay. It will also allow you to create a payment plan to address the original fines incurred as a result of your citations. The cost to you will be $105.00 plus the initial payment in your plan (which we are informed can be as low as $5.00). Once completed, your driver's license will be reinstated.

Please contact us if you have any additional questions.

Very truly yours,

Michael L. Fox
Sedgwick LLP

MLF/tsm

SUPERIOR COURT OF CALIFORNIA
COUNTY OF SACRAMENTO

- Locations
- FAQ
- ADA
- Contact

Friday, February 10, 2017

The Court will be closed on Monday, February 13th in observance of Lincoln's Birthday

- HOME
- ONLINE SERVICES
- INFO CENTERS
-
- GENERAL INFO
- CONTACT

Make Monthly Payments

Home > Traffic > Paying Fines > Make Monthly Payments

You may request monthly payments if you wish to pay the fine (bail) and close your case, but cannot do so all at once. There is an administrative fee of $35.00 for violations occurring 07/31/13 and before, OR a fee of $50.00 for violations occurring 08/01/13 and after added to the total amount due. **You must also pay a down payment of 10 percent of the total fine at the time you sign up for payments.**

1. To determine the down payment amount, view the 10% Down Payment Calculator. If you need assistance determining your down payment amount, contact the court at (916) 875-7800.
2. Once you know your down payment amount, print the Monthly Payment Request. Mail the completed form, plus the down payment to:

Sacramento Superior Court, Traffic Division
301 Bicentennial Circle, Room 100
Sacramento, CA 95826

Incomplete requests cannot be processed and may result in additional penalties.

Once your monthly payment plan has been established by the court, the Department of Revenue Recovery will process the monthly billing and payments on behalf of the court. Any questions or correspondence should be directed to the Department of Revenue Recovery- external link.

Failure to pay as agreed will result in your account becoming delinquent. Collection enforcement includes, but is not limited to, garnishment of your wages, seizure of funds in your bank account(s), placement of a lien on any real property you own, the balance of your fine reported to various credit bureaus as delinquent, and seizure of your California State Income Tax refund.

You cannot make monthly payments **and** request Traffic Violator School.

EXHIBIT 11

DEFENDANTS' RULE 4.335 REQUIREMENTS FOR AN ABILITY TO PAY HEARING REQUIRING THAT IF A DEFENDANT IS RECEIVING PUBLIC BENEFITS SUCH AS PLAINTIFF THEN PURSUANT TO SUBSECTION (C) (1) (4) REQUIRES THAT THE FINE BE COMPATIBLE WITH DEFENDANT'S ABILITY TO PAY

PAGES 51-52

California Rules of Court

Rule 4.335. Ability-to-pay determinations for infraction offenses

(a) Application

This rule applies to any infraction offense for which the defendant has received a written *Notice to Appear*.

(b) Required notice regarding an ability-to-pay determination

Courts must provide defendants with notice of their right to request an ability-to- pay determination and make available instructions or other materials for requesting an ability-to-pay determination.

(c) Procedure for determining ability to pay

(1) The court, on request of a defendant, must consider the defendant's ability to pay.

(2) A defendant may request an ability-to-pay determination at adjudication, or while the judgment remains unpaid, including when a case is delinquent or has been referred to a comprehensive collection program.

(3) The court must permit a defendant to make this request by written petition unless the court directs a court appearance. The request must include any information or documentation the defendant wishes the court to consider in connection with the determination. The judicial officer has the discretion to conduct the review on the written record or to order a hearing.

(4) Based on the ability-to-pay determination, the court may exercise its discretion to:

(A) Provide for payment on an installment plan (if available);

(B) Allow the defendant to complete community service in lieu of paying the total fine (if available);

(C) Suspend the fine in whole or in part;

(D) Offer an alternative disposition.

(5) A defendant ordered to pay on an installment plan or to complete community service may request to have an ability-to-pay determination at any time during the pendency of the judgment.

(6) If a defendant has already had an ability-to-pay determination in the case, a defendant may request a subsequent ability-to-pay determination only based on changed circumstances.

Rule 4.335 adopted effective January 1, 2017

Advisory Committee Comment

Subdivision (b). This notice may be provided on the notice required by rule 4.107, the notice of any civil assessment under section 1214.1, a court's website, or any other notice provided to the defendant.

Subdivision(c)(1). In determining the defendant's ability to pay, the court should take into account factors including: (1) receipt of public benefits under Supplemental Security Income (SSI), State Supplementary Payment (SSP), California Work Opportunity and Responsibility to Kids (CalWORKS), Federal Tribal Temporary Assistance for Needy Families (Tribal TANF), Supplemental Nutrition Assistance Program, California Food Assistance Program, County Relief, General Relief (GR), General Assistance (GA), Cash Assistance Program for Aged, Blind, and Disabled Legal Immigrants (CAPI), In Home Supportive Services (IHSS), or Medi-Cal; and (2) a monthly income of 125 percent or less of the current poverty guidelines, updated periodically in the Federal Register by the U.S. Department of Health and Human Services under 42 U.S.C. § 9902(2).

Subdivision (c)(4). The amount and manner of paying the total fine must be reasonable and compatible with the defendant's financial ability. Even if the defendant has not demonstrated an inability to pay, the court may still exercise discretion. Regardless of whether the defendant has demonstrated an inability to pay, the court in exercising its discretion under this subdivision may consider the severity of the offense, among other factors. While the base fine may be suspended in whole or in part in the court's discretion, this subdivision is not intended to affect the imposition of any mandatory fees.

PROOF OF SERVICE BY MAIL

I am not a party to the within action

I placed a true and correct copy of the following documents

Plaintiff's first amended complaint and Motion to Advance 28 USC 1657

I served on February 25, 2017, in Rocklin, California, at Rocklin Post Office, by over night delivery, to the following named counsel:

Jorge Aguilar, II and
Courtney S. Lui
Office of Attorney General
1515 Clay Street, Fl. 20
PO Box 70550
Oakland, CA 94612

Christopher Sean Patterson
Michael Fox
Sedgwick LLP
333 Bush St., Fl. 30
San Francisco, CA 94104

I declare under penalty of perjury, under the laws of the State of California, that the foregoing is true and correct. If called upon to testify I could and would so testify.

Dated: February 25, 2017

Karen Fletcher
Karen Fletcher